



# STATE OF IOWA

CHESTER J. CULVER, GOVERNOR  
PATTY JUDGE, LT. GOVERNOR

DEPARTMENT OF HUMAN SERVICES  
KEVIN W. CONCANNON, DIRECTOR

August 1, 2008

## GENERAL LETTER NO. 16-G-AP-23

ISSUED BY: Bureau of Protective Services, Division of Children and Family Services

SUBJECT: Employees' Manual, Title 16, Chapter G, Appendix, ***DEPENDENT ADULT PROTECTIVE SERVICES APPENDIX***, Contents (page 1), revised; pages 5, 6, 7, 11, 17, 22, 26, 30 and 31, revised; and the following forms:

- |           |  |
|-----------|--|
| 470-0657  | <i>Dependent Adult Abuse Intake</i> , revised  |
| 470-0688  | <i>Dependent Adult Abuse Evaluation or Assessment Report</i> , revised   |
| 470-4531  | <i>Authorization for Release of Dependent Adult Abuse Information</i> , new  |
| Comm. 96  | <i>Dependent Adult Protection Handbook</i> , Contents (pages i and ii), revised; and pages 10, 13, and 39, revised   |
| Comm. 118 | <i>Dependent Adult Abuse, A Guide for Mandatory Reporters</i> , revised  |
| Comm. 195 | <i>Dependent Adult Protective Services, Facility, Agency, and Program Evaluation Handbook</i> , Overview (page i), revised; and pages 4, 6, 10-13, 20, 22, 28, and 31, revised |

## Summary

This letter transmits the following revisions to 16-G-Appendix:

- ◆ Form 470-0657, *Dependent Adult Abuse Intake*, is revised by adding "sexual exploitation" to the list of allegations. Also a "Worker Safety Alert" notice is added to the top of the first page. Clicking on the button at the bottom of page 4 can activate it.
- ◆ Form 470-0688, *Dependent Adult Abuse Evaluation or Assessment Report*, is revised by adding "sexual exploitation" as a type of founded abuse and by adding the finding of "Assessment – The abuse is confirmed, not registered."
- ◆ Form 470-2444, *Adult Protective Notification*, is revised so when you type in the Registry Number on page one it automatically is entered on page two.
- ◆ Form 470-0675, *Child and Dependent Adult Abuse Contact Roster*, is obsolete and is deleted.

- ◆ New form 470-4531, *Authorization for Release of Dependent Adult Abuse Information*, is added for people who want to complete background checks on prospective employees but do not have access to dependent adult abuse information.

The subject gives the requester authority for the record check by signing the form. The only information the requester receives is whether the person's name is on the Registry for abusing a dependent adult. This form will be available on the DHS web page.

- ◆ Form 470-0681, *Dependent Adult Abuse Reporting Form*, is revised by adding "sexual exploitation" as a category of abuse reported and founded.
- ◆ Comm. 96, *Dependent Adult Protective Handbook*, is revised by changing "sexual exploitation of a resident of a health care facility" to "sexual exploitation of a dependent adult by a caretaker."
- ◆ Comm. 118, *Dependent Adult Abuse, A Guide for Mandatory Reporters*, is revised by: updating the introduction; adding the new form 470-4531, *Authorization for Release of Dependent Adult Abuse Information*, and adding changes to policy pursuant to 2008 Iowa Acts, House File 2591, which enacts a new Iowa Code Chapter 235E, "Dependent Adult Abuse," effective July 1, 2008.

This legislation authorizes the Department of Inspections and Appeals (DIA) to complete evaluations of abuse reported about dependent adults who reside in:

- Health care facilities licensed under Iowa Code Chapter 135C;
- Hospitals defined in Iowa Code section 135B.1;
- Elder group homes defined in Iowa Code section 231B.1;
- Assisted living programs certified in Iowa Code section 231C.1; and
- Adult day programs defined in section Iowa Code 231D.1.

Iowa Code Chapter 235B authorizes DHS to complete evaluations and assessments on all dependent adults not residing or receiving services in the settings listed above. To address these changes, the following changes were made in Comm. 118:

- Instructions for mandatory reporters are revised to indicate which health care facilities and programs are covered by DIA.
- Instruction for reporting abuse are revised how to report abuse to each agency, including a map and list of DHS intake unit phone numbers and fax numbers.
- Definitions used by DIA in evaluating abuse allegations are added.
- The definition of "assault" used by DHS in 441 Iowa Administrative Code 176.1(235B) is added.
- The category of abuse, "sexual exploitation of a resident of a health care facility" is amended to "sexual abuse of a dependent adult by a caretaker."

- ◆ Comm. 195, *Dependent Adult Protective Services, Facility, Agency, and Program Evaluation Handbook*, is also revised to reflect changes pursuant to 2008 Iowa Acts, House File 2591, assigning responsibility for more evaluations in programs and facilities to DIA, as described above. Changes to the handbook include:
  - A new section on the authority of DIA to complete evaluations of abuse in health care facilities, hospitals, elder group homes, assisted living programs, and adult day programs.
  - Revised instructions on which agency to report abuse.
  - Revisions to change the category of abuse “sexual exploitation of a resident of a health care facility” to “sexual abuse of a dependent adult by a caretaker.”
  - An update to the chart on which types of agencies are governed and regulated by what entity and who DHS needs to contact when initiating an evaluation or assessment of abuse in a facility, agency, or program.
  - An update to the DIA web page information and phone number.
  - Addition of suggestions on stressing the risks of liability if risk factors are not addressed when conducting an evaluation of safety of an alleged dependent adult in a facility or program.

### **Effective Date**

July 1, 2008

### **Material Superseded**

Remove the following pages from Employees’ Manual, Title 16, Chapter G, Appendix, and destroy them:

<u>Page</u>	<u>Date</u>
Contents (page 1)	October 5, 2007
470-0657 (after p. 2)	7/07
5, 6	October 5, 2007
7	May 4, 2008
470-0688 (after p. 10)	7/07
11, 17	May 4, 2008
22	August 12, 2003
470-0675	7/04
26	May 9, 2005
30, 31	October 5, 2007
<b>Comm. 96</b>	
Contents (page i, ii)	July 2007
10	July 1998
13	June 2006
39	July 1998

**Comm. 118** (entire document)

Title page	July 2007
Contents (page i)	February 2002
1, 2	February 2002
3	July 2004
4	September 2005
5	July 2004
6-10	February 2002
11, 12	September 2007
13-15	July 2007
16-19	February 2002
20, 21	September 2005
22-24	February 2002
470-2441	2/02
470-0612	1/01

**Comm. 195**

Overview page	May 2002
4	July 2006
6	May 2002
10	May 2004
11, 12	September 2005
13	May 2002
20, 22	June 2003
28	July 2007
31	June 2003

**Additional Information**

Refer questions about this general letter to your service area manager.

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Suspected Dependent Adult Abuse Report, Form 470-2441 .....	1
Dependent Adult Abuse Intake, Form 470-0657 .....	2
Dependent Adult Abuse Notice of Intake Decision, 470-3944 .....	8
Dependent Adult Abuse Information Request, Form 470-3326 .....	8a
Dependent Adult Abuse Checklist for Facility, Agency or Program, Form 470-3860 .....	8b
Dependent Adult Protective Extension Notification, Form 470-3246.....	9
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Dependent Adult Abuse Report Request for Extension, Form 470-0627 .....	16
Adult Protective Notification, Form 470-2444 .....	17
Request for Dependent Adult Abuse Registry Information, Form 470-0612.....	18
Dependent Adult Abuse Multidisciplinary Team Agreement, Form 470-2328 .....	19
Authorization for Release of Dependent Adult Abuse Information, Form 470-4531 .....	22
Dependent Adult Protective Services Registry Sheet, Form 470-2731 .....	23
Dependent Adult Protection Reporting Form, Form 470-0681 .....	24
Record Check Evaluation, Form 470-2310 and 470-2310(S) .....	33
Non-Redissemination Agreement, Form 470-3767 .....	34
Review Decision for Dependent Adult Abuse, Form 470-4074.....	35
Dependent Adult Abuse Intake Guidance Tool, Form 470-4456 .....	36
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Dependent Adult Abuse: A Guide for Mandatory Reporters, Comm. 118 .....	38
Facility, Agency, and Program Evaluation Handbook, Comm. 195 .....	39

**Dependent Adult Abuse Intake**

Referral Date / Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Report Due 20 days	Worker	Registry Number
---	-----------------------	--------	-----------------

**Dependent Adult**

First Name		M	Last	
County	Telephone (Home)		(Other)	
Household Address		City	State	Zip
Directions to Home				
Address of Abuse Incident				
R	S	DOB	Social Security Number	

**Assessment of Dependency**

A. Is there a diagnosed physical/mental condition? ☐ Yes ☐ No ☐ Unknown

Explain:

B. Does adult have adequate decision-making ability?

☐ Yes ☐ No ☐ Sometimes ☐ Unknown

Explain:

C. Does the adult require assistance in the following tasks of daily living?

☐ Cooking      ☐ Cleaning      ☐ Finances      ☐ Hygiene      ☐ Mobility  
☐ Dressing      ☐ Supervision      ☐ Medical care      ☐ Other:

Explain:

**Caretaker/Person Reported as Responsible for Abuse**☐ Dependent adult is responsible for the abuse

First Name	M	Last			Relationship
Address		City	State	Zip	Telephone
R	S	DOB	Social Security Number		

**Assessment of Caretaker**

- A. Type of caretaker: ☐ Voluntary assumption of services ☐ Court ordered  
☐ Contractual relationship ☐ Unknown
- B. Impact of caretaker services: ☐ Essential to meet basic needs  
☐ Adult would suffer harm if services discontinued

**Allegations**

Evaluation – There is a caretaker.

- ☐
- Physical
- ☐
- Critical care
- 
- ☐
- Sexual
- ☐
- Exploitation

Assessment – There is no caretaker.

- ☐
- Critical care due to adult's actions
- 
- ☐
- Sexual exploitation

Summary of allegations:

**Barriers**

- ☐
- Language
- ☐
- Lack of services
- ☐
- Isolation
- ☐
- None
- 
- ☐
- Other (explain):

**Collateral Sources of Information**

Name	Relationship	Address	Telephone
Name of Guardian, Conservator or Other Person Responsible for Dependent Adult			
Address		City	State Zip Telephone

**Reporter Information**

Reporter Name & Title		Agency	
Relationship to DA	Address	City	State      Zip
Telephone Number	(W) (H)	<input type="checkbox"/> Mandatory: <input type="checkbox"/> Mandatory, Reporter Permissive	
		<input type="checkbox"/> Permissive	

**Central Registry and Background Check**

Registry Contact Date	Time <input type="checkbox"/> AM <input type="checkbox"/> PM	Intake Decision Date / Time	Supv. Initials
<input type="checkbox"/> Accept		<input type="checkbox"/> Reject – Reason:	
Dependent Adult:	<input type="checkbox"/> DAA <input type="checkbox"/> ISIS <input type="checkbox"/> Criminal		
Person Suspected of Abuse:	<input type="checkbox"/> DAA <input type="checkbox"/> Criminal		
Worker Assigned			Worker Number

**Additional Information**



**Relationship.** Select any of the options that indicate the relationship between the dependent adult and the person thought to be responsible for the abuse. For example, if the person thought to be responsible is a daughter of the dependent adult and also is paid to provide care to the dependent adult, mark both “Child” and “Paid Caretaker.”

**Address.** Enter the alleged perpetrator’s complete address, if known, including the street, apartment number, box number, city, state, and zip code. If unknown, enter UNK.

**Telephone.** Enter the home and work phone, if known.

**R.** Enter the race code from the list in Part 5, above.

**S.** Enter M (male), F (female), or U (unknown) for the sex code.

**DOB.** Enter the date of birth, if known. Enter this date in eight digits, using the month, day, century, and year. If the date of birth is unknown, enter zeroes.

### **Assessment of Caretaker**

**Type of Caretaker.** Enter an X to indicate the relationship of the caretaker to the dependent adult.

**Impact of Caretaker Services.** Enter an X to indicate the impact of the services provided by the caretaker.

### **Allegations**

Indicate what type of abuse is being reported. Summarize all allegations. Whenever possible, use the words of the informant.

**Note:** You cannot “tab” out of “Summary of allegations or additional information.” Use your mouse to click out of this space.

### **Barriers**

Indicate the barriers the reporter believes the dependent adult has and explain them.

### **Collateral Sources of Information**

Enter the names, relationship to the dependent adult, addresses, and phone numbers of collateral contacts who have knowledge of the alleged abuse incident or the dependent adult. Add the name and information about the guardian, conservator, or any other person responsible for the dependent adult.

**Name of Guardian, Conservator or Other Person Responsible for Dependent Adult.** If there is a legal guardian or conservator or other person responsible for the dependent adult, enter information about this person.

### **Reporter Information**

**Reporter Name & Title.** Enter the reporter's name and title, if known. Enter the name of the agency where the reporter is employed.

**Relationship to DA.** Enter the reporter's professional or legal relationship to the dependent adult, if known.

**Address.** Enter the reporter's address, if known.

**Telephone Number.** Enter the reporter's work and home telephone numbers, if known.

**Mandatory.** Check whether the reporter is a mandatory reporter, permissive reporter, or mandatory reporter, reporting permissively. If the reporter is a mandatory reporter, indicate what profession the reporter represents.

### **Central Registry and Background Check.**

**Registry Contact Date and Time.** Enter the date and time when you contacted the Central Abuse Registry.

**Intake Decision Date/Time.** Your supervisor will enter the date and time the intake decision is made.

**Supv. Initials.** Your supervisor will check whether the referral was accepted or rejected and initial the form. If the report was rejected, your supervisor will indicate the reason.

**Reasons for Rejection:**

- ◆ Subject of the report is not a dependent adult.
- ◆ Alleged perpetrator is not a caretaker.
- ◆ The allegations do not constitute abuse.
- ◆ The information provided is insufficient to suspect abuse.
- ◆ Additional or duplicate information to prior report.
- ◆ Referred report to DIA.

**Dependent Adult and Person Suspected of Abuse.** Enter the dates and registry numbers of previous reports on the dependent adult and on the person suspected of abusing the dependent adult.

Enter information from ISIS about services the dependent adult is receiving. Enter information from the criminal database about the criminal background of the dependent adult and of the person suspected of abusing the dependent adult.

**Worker Assigned/Worker Number.** Your supervisor will enter the name and number of the worker who is assigned to do the report.

**Additional Information.** Add any additional information the worker needs to know before commencing an evaluation or assessment.

**Add or Remove Worker Safety Alert.** If you click on this button, the message “WORKER SAFETY ALERT” will appear at the top of the form on the first page in red. This button can be clicked on and off as many times as necessary.

**Send Button.** At the bottom of the form, there is a “Send” button. This gives you the ability to send the form to the supervisor to be either accepted or rejected, and then the supervisor may send it on to the assigned worker. The “Send” button may be used only twice.

**Dependent Adult Abuse Evaluation or Assessment Report**

Date of Report		Report Determination	
Date of Intake		Registry Number	County/Service Area
Name of Dependent Adult	Age		DOB
Current Living Arrangement	Address		Phone
Name of Person Determined to be Responsible for Abuse			
Address		Phone	
DOB	SSN	Relationship to Adult	
Name of Guardian, Conservator or Other Person Responsible for Dependent Adult			
Address		Phone	
<input type="checkbox"/> Abuse unfounded			
Type of Abuse Founded			
<i>Evaluation – There is a caretaker.</i>			
<input type="checkbox"/> Physical abuse <div> <input type="checkbox"/> Physical injury      <input type="checkbox"/> Injury at variance with history      <input type="checkbox"/> Unreasonable confinement  <input type="checkbox"/> Punishment      <input type="checkbox"/> Assault         </div>			
<input type="checkbox"/> Sexual <div> <input type="checkbox"/> First degree      <input type="checkbox"/> Assault with intent to commit      <input type="checkbox"/> Indecent exposure  <input type="checkbox"/> Second degree      <input type="checkbox"/> Detention in brothel      <input type="checkbox"/> Exploitation by counselor or therapist  <input type="checkbox"/> Third degree      <input type="checkbox"/> Incest      <input type="checkbox"/> Invasion of privacy         </div>			
<input type="checkbox"/> Sexual exploitation by caretaker			
<input type="checkbox"/> Critical care <div> <input type="checkbox"/> Food      <input type="checkbox"/> Supervision      <input type="checkbox"/> Care necessary to maintain life or health  <input type="checkbox"/> Shelter      <input type="checkbox"/> Physical care  <input type="checkbox"/> Clothing      <input type="checkbox"/> Mental health care         </div>			
<input type="checkbox"/> Exploitation Value of exploitation:			
<i>Assessment – There is no caretaker.</i>			
<input type="checkbox"/> Critical care due to actions of the dependent adult			
<i>Assessment – The abuse is confirmed, not registered.</i>			
<input type="checkbox"/> Physical abuse <input type="checkbox"/> Critical care			
Date Abuse Occurred		Where Abuse Occurred	

Outcome – Dependent Adult	
Legal: <input type="checkbox"/> Guardian/conservator	<input type="checkbox"/> Protective order
Services: <input type="checkbox"/> Removed from living arrangement	<input type="checkbox"/> Referred for services <input type="checkbox"/> No services needed
Abuse History:	Death: <input type="checkbox"/> No <input type="checkbox"/> Yes
Outcome – Person Responsible for Abuse	
Legal: <input type="checkbox"/> Referred to law enforcement	<input type="checkbox"/> Court order requested to prevent further abuse
<input type="checkbox"/> Charged with crime	<input type="checkbox"/> Sentenced
<input type="checkbox"/> Abuse history:	
Services: <input type="checkbox"/> Offender program	<input type="checkbox"/> Services provided <input type="checkbox"/> No services provided
Worker Name	Date
Supervisor	Date

**Narrative report with:**

- |  |   |
|--|---|
| ◆ Allegations,   | ◆ Evaluative or assessment conclusions,     |
| ◆ Actions to protect and assessment of dependent adult safety, | ◆ Recommendations for services, and         |
| ◆ Summary of contacts,   | ◆ Recommendation for district court action. |

Complete the information on the person determined to be responsible for the abuse. Enter the person's name, address, phone, date of birth, and social security number. Check the drop-down box for the person's relationship to the dependent adult.

Complete the information on the dependent adult's guardian, conservator, or other person responsible for the dependent adult. Document the person's name, address, and phone number.

If the report is unfounded, the "Types of Abuse" section is disabled and the tab goes directly to "Outcome-Dependent Adult" on the second page.

Click the boxes for type of abuse. More than one may be chosen.

Click on the drop down box that most closely approximates the dollar value of exploitation if the founded abuse is financial exploitation.

If there is no caretaker because the founded abuse is the result of actions of the dependent adult, click on that box.

If the founded physical abuse or denial of critical care is confirmed, but not registered, click on that box.

Indicate the date the abuse occurred and where the abuse occurred.

Click the boxes to indicate legal and services outcomes for the dependent adult, and whether the dependent adult died as a result of the abuse. Click on the boxes to indicate if the dependent adult had a history of abuse before this incident.

Click on the boxes to indicate the legal and services outcomes for the person responsible for the abuse. Click on the boxes to indicate if the person responsible for the abuse had a history or abuse before this incident.

Sign and date the document. Have your supervisor sign the document.

**Adult Protective Notification, Form 470-2444**

Purpose	<p>The <i>Adult Protective Notification</i> form is used to:</p> <ul style="list-style-type: none"><li>◆ Notify the subjects of the report of the results in a dependent adult abuse evaluation or assessment.</li><li>◆ Provide a simple means for subjects of an evaluation or assessment to obtain a copy of a report.</li><li>◆ Notify a mandatory reporter of the results of a dependent adult abuse evaluation or assessment.</li></ul>
Supply	<p>Form 470-2444 may be completed on line using the template available in Outlook under Public Folders: All Public Folders: State-Approved Forms.</p>
Completion	<p>The worker doing the evaluation or assessment completes this form within 48 hours of completion of the <i>Dependent Adult Abuse Evaluation or Assessment Report</i>, 470-0688. Complete separate forms for each subject of the report and for the mandatory reporter, if applicable.</p>
Distribution	<p>Send a copy to the subject or mandatory reporter and to the Central Abuse Registry. Maintain a copy of each notice in the case file.</p>
Data	<p>Enter:</p> <ul style="list-style-type: none"><li>◆ The date.</li><li>◆ The registry number (automatically entered on second page).</li><li>◆ The incident number.</li><li>◆ Your name and address.</li><li>◆ Your supervisor's name.</li><li>◆ Your office phone number.</li><li>◆ A check for the role of the person.</li><li>◆ Whether this notice is about an addendum.</li><li>◆ Your finding (founded, unfounded, or confirmed, not registered).</li><li>◆ The type of allegation.</li><li>◆ The name of the dependent adult.</li><li>◆ The names of the persons responsible for the abuse if founded.</li></ul>

**Authorization for Release of Dependent Adult Abuse Information, Form 470-4531**

Purpose	Form 470-4531 provides a means for persons who do not have access to dependent adult abuse information to request a background check when the person being checked agrees and signs the form.
Supply	This form is available on the Department 's home web page: <a href="http://www.dhs.iowa.gov/">http://www.dhs.iowa.gov/</a> . Click on "Public Information:," then click on "DHS Forms" and then scroll down to "Background Checks." The form may be completed on the web page and then printed off.
Completion	The person who is requesting the background check initiates this form. The person being checked provides the needed information and signs the form to authorize the Department to release the information. Central Registry staff complete the background check.
Distribution	The person requesting the background mails or faxes the form to the Central Abuse Registry. Registry staff complete the background check and mail or fax it back to the requester.
Data	The data is entered by the person being checked, the person requesting the background check and Registry staff.



**Authorization for Release of Dependent Adult Abuse Information**

This form must be used to authorize release of dependent adult abuse information when the person requesting the information does not have independent access to it in Iowa law. Complete a separate form for each person about whom information is requested. Send the original to the Central Abuse Registry, Iowa Department of Human Services, 1305 E Walnut Street, 5th Floor, Des Moines, IA 50319-0114 or fax to 515-242-6884.

**To be completed by the person requesting information:**

Requester

Address

City

State

Zip Code

Phone Number

The information concerns:

Name (first, middle initial, last)

Maiden Name or Alias (if applicable)

Birth Date

Social Security Number

Address

City

State

Zip Code

County

What is the purpose of your request for dependent adult abuse information?

I have read and understand the legal provisions for handling dependent adult abuse information that are printed on the second page of this form.

Signature

Date

**To be completed by the person authorizing the Department of Human Services to release dependent adult abuse information:**

Signature

Date

**To be completed by the Central Abuse Registry or designee:**

- ☐ The person named above is listed on the Dependent Adult Abuse Registry as having abused a dependent adult.
- ☐ The person named above is not listed on the Dependent Adult Abuse Registry as having abused a dependent adult.
- ☐ This request for information is denied because the form is incomplete.

Signature

Date

Comments:

## **Legal Provisions for the Handling of Dependent Adult Abuse**

### **Redissemination of Dependent Adult Abuse Information, Iowa Code 235B.8**

A person, agency, or other recipient of dependent adult abuse information shall not redisseminate this information. However, redissemination is permitted when all of the following conditions apply:

- The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.
- The person to whom the information would be redisseminated would have independent access to the same information under Iowa Code section 235B.6.
- A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.
- The written record is forwarded to the Registry within 30 days of the redissemination.

### **Criminal Penalties, Iowa Code 235B.12**

Any person is guilty of a criminal offense when the person:

- Willfully requests, obtains, or seeks to obtain dependent adult abuse information under false pretense.
- Willfully communicates or seeks to communicate dependent adult abuse information to any agency or person except in accordance with Iowa Code sections 235B.6 through 235B.8.
- Is connected with any research authorized pursuant to Iowa Code section 235B.6 and willfully falsifies dependent adult abuse information or any records relating to dependent adult abuse.

Upon conviction for each offense, the person shall be punished by a fine of up to \$1,000 or imprisonment for not more than two years, or by both fine and imprisonment.

Any person who knowingly, but without criminal purposes, communicates, or seeks to communicate dependent adult abuse information except in accordance with Iowa Code sections 235B.6 and 235B.8 shall be fined not more than \$100 or be imprisoned not more than ten days for each such offense.

- 14 Unreasonable confinement plus cruel punishment
- 15 Unreasonable confinement plus sexual
- 16 Unreasonable confinement plus exploitation
- 17 Unreasonable confinement plus critical care
- 18 Unreasonable confinement plus self-denial of critical care due to the dependent adult
- 19 Cruel punishment plus sexual
- 20 Cruel punishment plus exploitation
- 21 Cruel punishment plus critical care
- 22 Cruel punishment plus self-denial of critical care due to the dependent adult
- 23 Sexual plus exploitation
- 24 Sexual plus critical care
- 25 Sexual plus self-denial of critical care due to the dependent adult
- 26 Exploitation plus self-denial of critical care
- 27 Exploitation plus self-denial of critical care due to the dependent adult
- 28 No abuse; service need identified
- 29 Unknown
- 30 Confirmed, not registered physical abuse
- 31 Confirmed, not registered denial of critical care
- 32 Assault
- 33 Sexual exploitation

5a. Informant Type: Enter the code for the class of person who made the report of suspected dependent adult abuse to the Department of Human Services:

- 1 Victim, self-referral
- 2 Caretaker, self-referral
- 3 Caretaker, not perpetrator
- 4 Sibling
- 5 Other relative
- 6 Friend, neighbor
- 7 Anonymous
- 8 Other

5b. Blank

- 22 Cruel punishment plus self-denial of critical care due to the dependent adult
- 23 Sexual plus exploitation
- 24 Sexual plus self-denial of critical care
- 25 Sexual plus self-denial of critical care due to the dependent adult
- 26 Exploitation plus critical
- 27 Exploitation plus self-denial of critical care due to the dependent adult
- 28 No abuse; service need identified
- 29 Unknown
- 30 Sexual exploitation

15. Outcome of Report: Enter the code corresponding to the outcome of the report.

- 00 No abuse occurred
- 01 Physical injury
- 02 Unreasonable confinement
- 03 Cruel punishment
- 04 Sexual
- 05 Exploitation
- 06 Critical care
- 07 Critical care due to the dependent adults themselves
- 08 Physical injury plus unreasonable confinement
- 09 Physical injury plus cruel punishment
- 10 Physical injury plus sexual
- 11 Physical injury plus exploitation
- 12 Physical injury plus critical care
- 13 Physical injury plus self-denial of critical care due to the dependent adult
- 14 Unreasonable confinement plus cruel punishment
- 15 Unreasonable confinement plus sexual
- 16 Unreasonable confinement plus exploitation
- 17 Unreasonable confinement plus critical care
- 18 Unreasonable confinement plus self-denial of critical care due to the dependent adult
- 19 Cruel punishment plus sexual
- 20 Cruel punishment plus exploitation
- 21 Cruel punishment plus critical care
- 22 Cruel punishment plus self-denial of critical care due to the dependent adult
- 23 Sexual plus exploitation
- 24 Sexual plus critical care

- 25 Sexual plus self-denial of critical care due to the dependent adult
- 26 Exploitation plus critical
- 27 Exploitation plus self-denial of critical care due to the dependent adult
- 28 No abuse; service need identified
- 29 Unknown
- 30 Undetermined
- 31 Confirmed, not registered physical abuse
- 32 Confirmed, not registered denial of critical care
- 33 Sexual exploitation

16. Blank

17. Fatality: Enter the code indicating the findings of the evaluation regarding the death of the dependent adult:

- 0 Not fatal
- 1 Fatal, not a result of abuse
- 2 Fatal, result of abuse
- 3 Unknown

### G. General Information

18. Blank

19. P.A.: Enter the code indicating the dependent adult's public assistance status.

- 1 Receiving public assistance
- 2 Not receiving public assistance
- 3 Unknown

20. Blank

21. Number Previous: Enter total actual number of previous founded reports pertaining to this dependent adult.

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## Circumstances Constituting Dependent Adult Abuse

Iowa Code Chapter 235B:

Iowa law recognizes five categories of dependent adult abuse:

- ◆ [Physical abuse](#)
- ◆ [Sexual abuse](#)
- ◆ [Sexual exploitation of a dependent adult by a caretaker](#)
- ◆ [Exploitation](#)
- ◆ [Denial of critical care](#)

The following sections describe the factors required for an allegation to qualify as a report of abuse in each category.

### Physical Abuse

For a situation to be reportable as physical abuse, the reporter must have a reasonable belief that **four factors** are present:

- ◆ The alleged victim is a **dependent adult**.
- ◆ The dependent adult has suffered a [physical injury](#) (see definition) or injury which is at a variance with the history given of the injury, **OR unreasonable confinement, or unreasonable punishment, OR assault**.
- ◆ The injury was **nonaccidental or at variance with the history** given of it.
- ◆ The dependent adult has been injured as a result of acts of omissions of the **caretaker**.

Physical injuries suffered by a dependent adult can usually be considered **not accidental** if:

- ◆ They resulted from an act administered for the specific purpose of causing an injury.
- ◆ They were administered during the course of supervision. (Not all injuries sustained during the course of supervision are nonaccidental. It is possible to injure someone accidentally while providing supervision.)
- ◆ A prudent person would have intervened in a course of events to prevent injury.



## Sexual Abuse

For a situation to be reportable as sexual abuse, the reporter must reasonably suspect that three conditions are present. They are:

- ◆ The alleged victim is a **dependent adult**.
- ◆ A **sexual offense** has been committed against the dependent adult.
- ◆ The sexual offense suffered by the dependent adult has occurred as a result of acts or omissions of the **caretaker**.

There are ten categories of sexual abuse that the Department evaluates:

- ◆ Sexual abuse in the first degree (Iowa Code section 709.2)
- ◆ Sexual abuse in the second degree (Iowa Code section 709.3)
- ◆ Sexual abuse in the third degree (Iowa Code section 709.4)
- ◆ Detention in a brothel (Iowa Code section 709.7)
- ◆ Indecent exposure (Iowa Code section 709.9)
- ◆ Assault with intent to commit sexual abuse (Iowa Code section 709.11)
- ◆ Sexual exploitation of a dependent adult by a counselor or therapist (Iowa Code section 709.15)
- ◆ Invasion of privacy, nudity (Iowa Code section 709.21)
- ◆ Incest (Iowa Code section 726.2)
- ◆ Sexual exploitation of a dependent adult by a caretaker (Iowa Code section 235B.2)

## Sexual Exploitation of a Dependent Adult by a Caretaker

“Sexual exploitation” means any sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult. It **does not** include touching which is part of a necessary examination, treatment, or care.

For sexual exploitation of a dependent adult by a caretaker, the reporter must reasonably suspect that:

- ◆ The alleged victim is a dependent adult.
- ◆ The perpetrator is a caretaker providing services to a dependant adult.

## Founded Sexual Exploitation of a Dependent Adult by a Caretaker

For a situation to be founded as sexual exploitation of a dependent adult by a caretaker, the report must include credible evidence of **three** factors. They are:

**Factor 1.** The victim is a **dependent adult**,

**Factor 2.** The perpetrator is a **caretaker** providing services to a dependent adult.

**Factor 3.** **Sexual exploitation** occurred. "Sexual exploitation" means any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult. This includes, but is not limited to:

- ◆ Kissing.
- ◆ Touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals.
- ◆ A [sex act](#). (See [DEFINITIONS](#) section of this handbook.)

**Note:** Sexual exploitation does **not** include

- ◆ Touching which is a part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker.
- ◆ The exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship.
- ◆ Touching between spouses.

Credible evidence may include one of the following:

- ◆ Information provided by a credible perpetrator or victim. The information obtained should include a precise description of the type of sexual conduct.
- ◆ Observation of the sex act by a credible person. The information obtained should include a precise description of the type of sexual conduct.
- ◆ Diagnosis or verification by a competent medical practitioner of the presence of genital injuries or disease that could not exist in the absence of a sex act.

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## **Dependent Adult Abuse Overview**

“Dependent adult” abuse allegations involve people who are aged 18 or over and are incapable of adequate self care due to physical or mental conditions and require assistance from other people. Dependent adults may be elderly or may have diminished physical or mental capacities that prevent them from meeting their own needs adequately.

Researchers estimate that only 1 in 14 incidents of elder abuse actually come to the attention of law enforcement or human service agencies. Elder abuse is one of the most under-recognized and under-reported social problems in the United States. It is far less likely to be reported than child abuse because of the lack of public awareness. Nationally, it is estimated that over 55% of elder abuse is due to self-neglect. Such abuse can happen anywhere ... in private homes, at health care facilities and in the community at large.

Iowa has an increasing proportion of people who are aged 60 or over. The number of persons 80 or over is increasing more rapidly than any other age group. Iowa’s proportion of older adults in the population exceeds that of the United States as a whole. Nationwide, Iowa ranks:

- 2<sup>nd</sup> in the percentage of persons over age 85
- 2<sup>nd</sup> in the percentage of persons over age 75
- 3<sup>rd</sup> in the percentage of persons over age 65
- 4<sup>th</sup> in the percentage of persons over age 60

In 1993, the Department of Elder Affairs, Iowa State University, and area agencies on aging conducted a statewide needs assessment of non institutionalized Iowans aged 60 to 104. In general, older people in Iowa appear to be doing fairly well, but there are also large numbers who are vulnerable and at risk.

About half of the people in the study lived alone, a trend that is likely to continue into the next century. Those living alone more likely to be older women with lower incomes. The older a woman becomes in our society, the more likely she is to live alone.

Health problems that occur when an elderly person lives alone are more likely to create problems for independent living. While many family and friends provide strong support systems for the elderly, many people who live alone have no one to help them and must rely on the provision of services or on paid assistance. In fact, the data shows that much of the assistance the elderly are receiving is coming from professionals. The elderly who are living alone must have services available to them in order to maintain their independence.

Dependent adults also include those who have diminished physical or mental capacity. People who have a diminished ability to protect themselves and are dependent on others for basic needs are particularly vulnerable to mistreatment, physical violence, threats of assault, verbal abuse, financial exploitation, physical or emotional neglect, and sexual abuse. Iowa has a sizable population of adults who are dependent but are not elderly.

### **Iowa Response**

Iowa Code Section 235B, "Dependent Adult Abuse," took effect on January 1, 1983, and has been amended yearly since then. This law authorizes the Department of Human Services (DHS) to accept reports of suspected dependent adult abuse, evaluate those reports, complete an assessment of needed services, make referrals for services, and maintain a central registry of abuse information.

DHS has legal authority to conduct evaluations and assessments of alleged dependent adult abuse that occurs in the community when it is alleged that:

- ◆ The victim meets the definition of being a dependent adult, and
- ◆ The victim suffers one or more of the five categories of abuse or neglect, and
- ◆ The abuse or neglect occurred as a result of the acts or omissions of a responsible caretaker or of the dependent adult.

DHS conducts approximately 1600 evaluations of dependent adult abuse annually.

Under 2008 Iowa Acts, House File 2591, section 11, the Department of Inspections and Appeals is now responsible for accepting reports of suspected dependent adult abuse in the following facilities and for completing evaluations of these reports:

- ◆ Health care facilities licensed in Iowa Code section 135C.1,
- ◆ Hospitals defined in Iowa Code section 135B.1,
- ◆ Elder group homes defined in Iowa Code section 231B.1,
- ◆ Assisted living programs certified in Iowa Code section 231C.3, and
- ◆ Adult day services programs defined in Iowa Code section 231D.1.

Additionally, dependent adult abuse may be a crime. Often the evaluating worker and law enforcement work together. Criminal laws provide for the prosecution of alleged perpetrators in cases where a criminal act has been committed.

Other laws provide other means of protection for dependent adults, including substitute decision makers and, when necessary, the involuntary commitment of adults for substance abuse or mental health reasons.

Services can be provided for dependent adults. However all adults have a right to self-determination. This means that the dependent adult can refuse services unless a court determines that the person is not competent to make decisions or is threatening his or her own life or that of others.

Iowa Code section 235B.4 creates a central registry in DHS to provide a single source for the statewide collection, maintenance, and dissemination of dependent adult abuse information. The Central Abuse Registry includes report data, investigative data, and disposition data relating to reports of dependent adult abuse. The purpose of the Registry is to:

- ◆ Facilitate the identification of victims or potential victims of dependent adult abuse by making available a single, statewide source of dependent adult data.
- ◆ Facilitate research on dependent adult abuse by making available a single, statewide source of dependent adult abuse data.
- ◆ Provide maximum safeguards against the unwarranted invasions of privacy that such a registry might otherwise entail.

The Registry issues an annual report on its administrative operation, including information as to the number of requests for dependent adult abuse data, the proportion of requests attributable to each type of authorized access, the frequency and nature of irregularities, and other pertinent matters.

### **Am I a Mandatory Reporter of Dependent Adult Abuse?**

Iowa Code section 235B.3(2) and 2008 Iowa Acts, House File 2591, section 11, paragraph 2, require all of the following people to report suspected dependent adult abuse to the DHS or the DIA if the person in the course of employment examines, attends, counsels, or treats a dependent adult and reasonably believes the dependent adult has suffered abuse:

- ◆ A member of the staff of a community mental health center
- ◆ A staff member or employee of a health care facility defined in Iowa Code 135C.1; hospital as defined in Iowa Code 135B; elder group home as defined in Iowa Code 231B.1; assisted living program certified under Iowa Code 231C.3, or adult day services programs defined in Iowa Code 231D.1
- ◆ A peace officer
- ◆ An in-home homemaker-home health aide
- ◆ A person employed as an outreach person
- ◆ A health practitioner, as defined in Iowa Code section 232.68
- ◆ A member of the staff or an employee of a community supervised apartment living arrangement, sheltered workshop, or work activity center
- ◆ A social worker
- ◆ A certified psychologist
- ◆ A care review committee member assigned to an elder group home pursuant to Iowa Code Chapter 231B

NOTE: **Any** other person who believes that a dependent adult has suffered abuse **may** make a report of the suspected abuse to DHS. Mandatory reporters may also report suspected abuse **outside** the scope of their professional practice, as **permissive** reporters. An employee of a financial institution may report suspected financial exploitation of a dependent adult.

## **How Do I Report Dependent Adult Abuse?**

441 Iowa Administrative Code 176.4(235B) and 176.5(235B)

Iowa Code Section 235B.3 requires that if you are a mandatory reporter of dependent adult abuse, and you suspect a dependent adult has been abused, you must report it to DHS. New legislation in 2008 Iowa Acts, House File 2591, requires that if the abuse occurred in a health care facility, hospital, elder group home, assisted living or adult day services program, you should report it to the Department of Inspections and Appeals (DIA). Make the report to DHS or DIA by telephone or by other means.

Both the DHS Central Abuse Registry and DHS local offices accept reports from any person who believes dependent adult abuse has occurred. DHS maintain a toll-free telephone line 1-800-362-2178, which is available on a 24-hour-a-day, seven-day-a-week basis. Any person may use this number to report cases of suspected dependent adult abuse. All authorized persons may also use this number for obtaining dependent adult abuse information. DIA can be contacted at 1-877-686-0027.

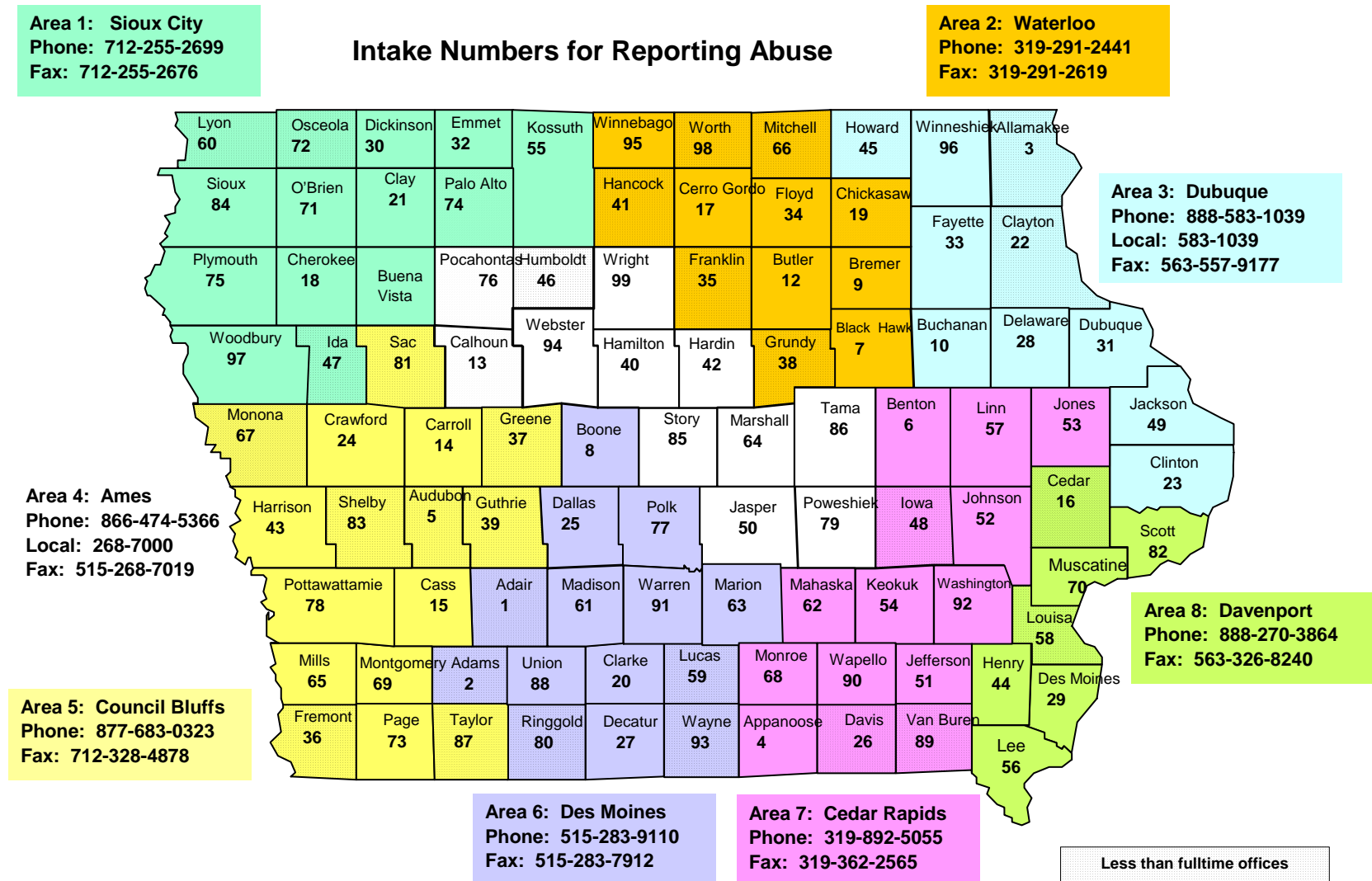
If you have reason to believe that immediate protection for the dependent adult is advisable, also make an oral report to the appropriate law enforcement agency. A county attorney or law enforcement agency that receives a report of dependent adult abuse must refer it to DHS.

You must also make a report in writing within 48 hours after your oral report. You may use DHS form 470-2441, *Suspected Dependent Adult Abuse Reporting Form*, or a format you develop that meets the requirements listed below, based on 441 Iowa Administrative Code 176.5(235B). See the end of this handbook for a sample of form [470-2441](#).

If you are a staff member or employee, you must also immediately notify the person in charge or the person's designated agent. "Immediately" means within 24 hours from the time the mandatory reporter suspects abuse of a dependent adult. The employer or supervisor of a mandatory abuse reporter shall not apply any policy, work rule, or other requirement that interferes with the person making a report of dependent adult abuse or that results in the failure of another person to make the report.

If you are a staff member or employee of a facility or program licensed or certified by the DIA, you must immediately notify the person in charge or the person's designated agent, who then makes the report to the DIA, within 24 hours, unless the person you are to report directly to is the person you suspect of abusing the dependent adult.





**Report Requirements**

Include in your report the following information, or as much of it as you are able to furnish:

- ◆ The names and home addresses of the dependent adult, relatives, caretakers, and other people believed to be responsible for the dependent adult's care.
- ◆ The dependent adult's present whereabouts, if not the same as the address given.
- ◆ The reason the adult is believed to be dependent.
- ◆ The dependent adult's age.
- ◆ The nature and extent of the adult abuse, including evidence of previous adult abuse.
- ◆ Information concerning the suspected adult abuse of other dependent adults in the same residence.
- ◆ Other information that you believe might be helpful in establishing the cause of the abuse or the identity of the people responsible for the abuse or helpful in assisting the dependent adult.
- ◆ Your name and address.

A report that meets the criteria will be accepted whether or not it contains all of the information listed.

**Confidentiality and Immunity from Liability**

Iowa Code section 235B.3, states in subsections 7 through 10:

The department shall inform the appropriate county attorneys of any reports of dependent adult abuse. The department may request information from any person believed to have knowledge of a case of dependent adult abuse. The person, including but not limited to a county attorney, a law enforcement agency, a multidisciplinary team, or a social services agency in the state shall cooperate and assist in the evaluation upon the request of the department. County attorneys and appropriate law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

A person participating in good faith in reporting or cooperating with or assisting the department in evaluating a case of dependent adult abuse has immunity from liability, civil or criminal, which might otherwise be incurred or imposed based upon the act of making the report or giving the assistance. The person has the same immunity with respect to participating in good faith in a judicial proceeding resulting from the report or cooperation or assistance or relating to the subject matter of the report, cooperation, or assistance.

It shall be unlawful for any person or employer to discharge, suspend, or otherwise discipline a person required to report or voluntarily reporting an instance of suspected dependent adult abuse pursuant to subsection 2 or 4, or cooperating with, or assisting the department of human services in evaluating a case of dependent adult abuse, or participating in judicial proceedings relating to the reporting or cooperation or assistance based solely upon the person's reporting or assistance relative to the instance of dependent adult abuse. A person or employer found in violation of this subsection is guilty of a simple misdemeanor.

A person required by this section to report a suspected case of dependent adult abuse who knowingly and willfully fails to do so commits a simple misdemeanor. A person required by this section to report a suspected case of dependent adult abuse who knowingly fails to do so or who knowingly interferes with the making of a dependent adult abuse report or applies a requirement that results in a failure to make a report, is civilly liable for the damages proximately caused by the failure.

### **Indicators of Possible Dependent Adult Abuse**

The following physical, behavioral, and environmental indicators are listed as signs of possible dependent adult abuse for you to consider in making your report. These lists are examples and are not all-inclusive.

#### **Environment**

- ◆ No food in the house or rotted, infested food
- ◆ Lack of proper food storage
- ◆ Special dietary foods not available
- ◆ Inadequate cooking facilities or equipment
- ◆ Clothes extremely dirty or uncared for
- ◆ Not dressed appropriately for the weather
- ◆ Inadequate or ill fitting clothing, not dressing
- ◆ Wearing all of one's clothing at once
- ◆ Structure dilapidated or in poor repair
- ◆ Fallen steps, high grass, rotted porch, leaking roof
- ◆ Utilities cut off or lack of heat in winter
- ◆ Doors or windows made out of cardboard
- ◆ Unvented gas heaters, chimney in poor repair
- ◆ No fuel for heating or fuel stored dangerously
- ◆ Lack of water or contaminated water
- ◆ Gross accumulation of garbage, papers, and clutter
- ◆ Lack of access to essential rooms
- ◆ Lack of access to community resources
- ◆ Lives on the street
- ◆ Large number of pets with no apparent means of care
- ◆ No income, unpaid bills
- ◆ Out of money by second week of the month
- ◆ Income does not meet monthly expenditures
- ◆ Signs checks over to others
- ◆ Sudden change in money management habits

- ◆ Sudden withdrawals or closing out of bank accounts
- ◆ No TV, radio, telephone, newspapers, magazines
- ◆ No friends or family visits
- ◆ No means of transportation
- ◆ Not physically able to get out and shop, pay bills, etc.

**Physical Condition**

- ◆ Lack of medical care
- ◆ Lack of personal cleanliness and grooming, body odors
- ◆ Swollen eyes or ankles, decayed teeth or no teeth
- ◆ Bites, fleas, sores, lesions, lacerations
- ◆ Multiple or repeated or untreated injuries
- ◆ Injuries incompatible with explanation
- ◆ Bruises, broken bones or burns
- ◆ Untreated pressure sores
- ◆ Signs of confinement (tied to furniture, locked in a room, etc.)
- ◆ Obesity, malnourishment or dehydration
- ◆ Tremors
- ◆ Difficulty in communication
- ◆ Broken glasses frames or lenses
- ◆ Drunk, overly medicated
- ◆ Lying in urine, feces, old food
- ◆ No use of limbs, lack of mobility

**Behavior**

- ◆ Intentional physical self-abuse, suicidal statements
- ◆ Persistent liar
- ◆ Does not follow medication directions
- ◆ Refuses needed medical attention
- ◆ Refuses to accept services offered by others
- ◆ Threatens or attacks others physically or verbally
- ◆ Refuses to accept presence of visitor
- ◆ Refuses to open door
- ◆ In total darkness
- ◆ Denies obvious problems (medical conditions, etc.)
- ◆ Increased depression, anxiety or hostility
- ◆ Withdrawn, reclusive, suspicious, timid, unresponsive
- ◆ Refuses to discuss the situation
- ◆ Lack of trust in family as well as in others
- ◆ Refuses to take medication
- ◆ Denies any wrong-doing, medically or otherwise
- ◆ Unjustified pride in self-sufficiency
- ◆ Procrastination
- ◆ Turns off hearing aid
- ◆ Hallucinations, confusion or delusions
- ◆ Disorientation as to place and time
- ◆ Forgetfulness, losing things, not shutting stove off
- ◆ Loneliness, anger, or fearfulness
- ◆ Diminished mental capacity
- ◆ Vague health complaints
- ◆ Longing for death

## **What Is Dependent Adult Abuse Under Iowa Law?**

There are two laws, Iowa Code Chapter 235B for dependent adults in the community and 2008 Iowa Acts, House File 2591 for dependent adults who live in health care facilities defined in Iowa Code section 135C.1, hospitals defined in Iowa Code, section 135B.1, elder group homes defined in Iowa Code section 231B.1, assisted living programs defined in Iowa Code section 231C.1, and adult day services programs defined in Iowa Code section 231D.1.

### **Definitions Used by DHS**

As defined in Iowa Code section 235B.2, "dependent adult abuse" includes the following five categories of abuse as the result of the willful or negligent acts or omissions of a caretaker:

- ◆ Physical abuse (including unreasonable confinement or punishment and assault)
- ◆ Sexual abuse
- ◆ Financial exploitation
- ◆ Denial of critical care (including denial of critical care by the dependent adult)
- ◆ Sexual exploitation by a caretaker

### **Victim**

To be accepted for evaluation, a report must concern a dependent adult. Iowa Code section 235B.2 defines "dependent adult" as a person 18 years of age or older who is:

- ◆ Unable to protect the person's own interests or unable to adequately perform or obtain services necessary to meet essential human needs.
- ◆ As a result of a physical or mental condition that requires assistance from another.

Dependent adult abuse does not include allegations involving:

- ◆ Domestic abuse in a situation where the victim is not "dependent."
- ◆ People who are legally incarcerated in a penal setting, either in a local jail or in the custody of the Department of Corrections.

**Person Responsible for Abuse**

Iowa Code section 235B.2 defines “caretaker” as a related or nonrelated person who has the responsibility for the protection, care, or custody of a dependent adult as a result of assuming the responsibility voluntarily, by contract, through employment, or by the order of the court.

**Physical Abuse**

“Physical abuse” means one of the following, as a result of the willful or negligent acts or omissions of a caretaker:

- ◆ Physical injury to a dependent adult
- ◆ Injury to a dependent adult which is at a variance with the history given of the injury
- ◆ Unreasonable confinement of a dependent adult
- ◆ Unreasonable punishment of a dependent adult
- ◆ Assault of a dependent adult

“An assault” is committed by a caretaker when, without justification, the person does any of the following:

1. Any act which is intended to cause pain or injury to, or which is intended to result in physical contact which will be insulting or offensive to another, coupled with the apparent ability to execute the act.
2. Any act, which is intended to place another in fear of immediate physical contact, which will be painful, injurious, insulting, or offensive, coupled with the apparent ability to execute the act.
3. Intentionally points any firearm toward another, or displays in a threatening manner any dangerous weapon toward another.

Provided, that where the person doing any of the above enumerated acts, and such other person, are voluntary participants in a sport, social or other activity, not in itself criminal, and such act is a reasonably foreseeable incident of such sport or activity, and does not create an unreasonable risk of serious injury or breach of the peace, the act shall not be an assault.

Note that there does not have to be an injury to constitute physical abuse.

**Sexual Abuse**

“Sexual abuse” means the commission of a sexual offense under Iowa Code Chapter 709 or Iowa Code section 726.2 with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker. This includes the following sub-categories:

- ◆ First degree sexual abuse
- ◆ Second degree sexual abuse
- ◆ Third degree sexual abuse
- ◆ Detention in a brothel
- ◆ Indecent exposure
- ◆ Assault with intent to commit sexual abuse and incest
- ◆ Sexual exploitation by a counselor or therapist
- ◆ Sexual exploitation of a dependent adult by a caretaker
- ◆ Invasion of privacy, nudity
- ◆ Incest

**Sexual Exploitation by a Caretaker**

“Sexual exploitation by a caretaker” means any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to kissing; touching the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17.

Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

**Financial Exploitation**

“Financial exploitation” means the act or process of:

- ◆ Taking unfair advantage of a dependent adult or the adult’s physical or financial resources for one’s own personal or pecuniary profit without the informed consent of the dependent adult, including theft.
- ◆ By the use of undue influence, harassment, duress, deception, false representation, or false pretenses.
- ◆ As a result of the willful or negligent acts or omissions of a caretaker.

**Denial of Critical Care**

“Denial of critical care” means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or health, as a result of the willful or negligent acts or omissions of a caretaker. This includes the following sub-categories:

- ◆ Denial of or failure to provide adequate food
- ◆ Denial of or failure to provide adequate shelter
- ◆ Denial of or failure to provide adequate clothing
- ◆ Denial of or failure to provide adequate medical care
- ◆ Denial of or failure to provide adequate mental health care
- ◆ Denial of or failure to meet emotional needs necessary for normal functioning
- ◆ Denial of or failure to provide proper supervision
- ◆ Denial of or failure to provide adequate physical care

NOTE: Denial of critical care may also be the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult’s life or health as a result of the acts or omissions of the dependent adult. (This includes the sub-categories listed above.)

Dependent adult abuse does **not** include the following circumstances:

- ◆ The dependent adult declines medical treatment because the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- ◆ The dependent adult’s caretaker declines such treatment acting in accordance with the dependent adult’s stated or implied consent, if the dependent adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- ◆ The dependent adult or the dependent adult’s next of kin or guardian requests withholding or withdrawal of health care from a dependent adult who is terminally ill, in the opinion of a licensed physician, pursuant to the applicable procedures under Iowa Code Chapters 125, 144A, 222, 229, or 633.



**Definitions Used by DIA**

House File 2591, enacted by the Eighty Second General Assembly, gave DIA the authority to evaluate reports of abuse in health care facilities, hospitals, assisted living programs, elder group homes, and adult day services programs.

As defined by House File 2591, section 11, "dependent adult abuse" includes the following as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances.

- ◆ Physical abuse
- ◆ Sexual abuse
- ◆ Financial exploitation
- ◆ Neglect
- ◆ Sexual exploitation

**Victim**

To be accepted for evaluation, a report must concern a dependent adult.

"Dependent adult" means a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for the person's own care or protection is impaired, either temporarily or permanently.

**Person Responsible for Abuse**

The abuse must have occurred as a result of actions taken by a "caretaker" who is a staff member of a facility or program and who provides care, protection, or services to a dependent adult voluntarily, by contract, through employment, or by order of the court.

**Physical Abuse**

"Physical abuse" means one of the following, as a result of the willful misconduct or gross negligence or reckless acts or omissions of a caretaker, taking into account the totality of the circumstances:

- ◆ Physical injury
- ◆ Injury which is at a variance with the history given of the injury
- ◆ Unreasonable confinement
- ◆ Unreasonable punishment
- ◆ Assault that involved the breach of skill, care, and learning ordinarily exercised by a caretaker in similar circumstances.

“Assault” means the commission of (1) any act that is generally intended to cause pain or injury to a dependent adult, or is generally intended to result in physical contact that would be considered by a reasonable person to be insulting or offensive or (2) any act that is intended to place another in fear of immediate physical contact that will be painful, injurious, insulting or offensive, coupled with the apparent ability to execute the act.

### **Sexual Abuse**

“Sexual abuse” means the commission of a sexual offense under Iowa Code chapter 709 or section 726.2 with or against a dependent adult. This includes the following sub-categories:

- ◆ First degree sexual abuse
- ◆ Second degree sexual abuse
- ◆ Third degree sexual abuse
- ◆ Detention in a brothel
- ◆ Indecent exposure
- ◆ Assault with intent to commit sexual abuse and incest
- ◆ Sexual exploitation by a counselor or therapist
- ◆ Invasion of privacy, nudity
- ◆ Incest
- ◆ Sexual exploitation of a dependent adult in a care facility or program

“Sexual exploitation in a facility or program” means any consensual or nonconsensual sexual conduct with a dependent adult. This includes but is not limited to kissing; touching of the clothed or unclothed breast, groin, buttock, anus, pubes, or genitals; or a sex act as defined in Iowa Code section 702.17.

“Sexual exploitation” also includes the transmission, display, or taking of electronic images of the unclothed breast, groin, buttock, anus, or pubes that is not related to treatment or diagnosis or part of an ongoing investigation.

“Sexual exploitation” does not include touching that is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses or domestic partners in an intimate relationship.

### **Financial Exploitation**

“Exploitation” means a caretaker who knowingly obtains, uses, endeavors to obtain to use, or who misappropriates, a dependent adult’s funds, assets, medications, or property with the intent to temporarily or permanently deprive a dependent adult of the use, benefit, or possession of the funds, assets, medication, or property for the benefit of someone other than the dependent adult.

### **Neglect**

“Neglect” means the deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult’s life or physical or mental health.

Dependent adult abuse in health care facilities, assisted living programs, elder group homes, and adult day service programs does not include the following circumstances:

- ◆ The dependent adult declines medical treatment because the adult holds a belief or is an adherent of a religion whose tenets and practices call for reliance on spiritual means in place of reliance on medical treatment.
- ◆ The dependent adult’s caretaker declines medical treatment acting in accordance with the dependent adult’s stated or implied consent.
- ◆ A dependent adult or the adult’s next of kin or guardian requests withholding or withdrawing of health care from the adult who is terminally ill, in the opinion of a licensed physician, pursuant to the applicable procedures under Iowa Code chapters 125, 144A, 222, 229, or 633.

### **Report Conclusions**

DIA has three possible outcomes in a dependent adult abuse evaluation:

- ◆ **Founded:** It is determined by a preponderance of evidence (more than 50%) that abuse has occurred. Information on founded reports is maintained on the Central Abuse Registry for ten years and then sealed.
- ◆ **Unfounded:** It is determined by a preponderance of evidence (more than 50%) that abuse has not occurred. Information on unfounded reports is destroyed one year from the date they were unfounded.
- ◆ **Confirmed, not registered:** It is determined by a preponderance of evidence (more than 50%) that abuse has occurred. When physical abuse or denial of critical care by a caretaker is determined to be minor, isolated and unlikely to reoccur, the report is maintained for five years and then destroyed, unless a subsequent report is founded.

If there is a subsequent report committed by the same caretaker within five years of the nonregistered report, it also may be considered minor, isolated, and unlikely to reoccur depending on the circumstances. These reports are called "assessments" rather than "evaluations." The subsequent reports will be kept for ten years and then sealed.

### **How Does DHS Respond?**

441 Iowa Administrative Code 176.6(235B)

Immediately upon receipt of a report of dependent adult abuse, DHS shall:

- ◆ Make an oral report to the Central Abuse Registry.
- ◆ Forward a copy of the report to the Registry.
- ◆ Notify the local county attorney of the receipt of the report.
- ◆ Commence an appropriate evaluation or assessment.

Upon receipt of a report of suspected dependent adult abuse, the Central Abuse Registry searches its records. If Registry records reveal any previous report of dependent adult abuse involving the same adult or any other pertinent information with respect to the same adult, the Registry immediately notifies the appropriate DHS office or law enforcement agency of that fact.

The primary purpose of the evaluation or assessment is the protection of the dependent adult named in the report. The evaluation or assessment shall include all of the following:

- ◆ Identification of the nature, extent, and cause of the adult abuse, if any, to the dependent adult named in the report.
- ◆ The identification of the person or persons responsible for the adult abuse.
- ◆ A determination of whether other dependent adults in the same residence have been subjected to adult abuse.
- ◆ A critical examination of the residential environment of the dependent adult named in the report, and the dependent adult's relationship with caretakers and other adults in the same residence.
- ◆ A critical explanation of all other pertinent matters.

The DHS process of evaluating reports of dependent adult abuse is as follows:

- ◆ Intake
- ◆ Appropriate evaluation or assessment
  - Contact with the dependent adult at the person's residence or at a care or training program
  - Interview with the alleged perpetrator
  - Obtaining information from subjects of the report and other relevant parties

- ◆ Documentation of evaluative conclusions and recommendations for services or court action
- ◆ Documentation of evaluation through completion of reports
- ◆ Completion of required correspondence to subjects and mandatory reporters

### **Evaluation or Assessment**

DHS may request information from any person believed to have knowledge of a case of dependent adult abuse. This includes but is not limited to a county attorney, a law enforcement agency, a multidisciplinary team, a social services agency in the state, or any person who is required to report dependent adult abuse, whether or not the person made the specific dependent adult abuse report.

The person **shall cooperate and assist** in the evaluation upon the request of DHS. County attorneys, law enforcement agencies, multidisciplinary teams, and social services agencies in the state shall cooperate and assist in the evaluation or assessment upon the request of DHS. County attorneys and law enforcement agencies shall also take any other lawful action necessary or advisable for the protection of the dependent adult.

With the consent of the dependent adult or caretaker, the evaluation or assessment may, when appropriate, include a visit to the residence of the dependent adult named in the report and an examination of the dependent adult.

If permission to enter the residence and to examine the dependent adult is refused, the district court may authorize DHS to enter the dependent adult's residence and to examine the dependent adult to make an evaluation or assessment, upon a showing of probable cause that the dependent adult has been abused. A court may also authorize DHS to gain access to the financial records of the dependent adult upon a showing of probable cause that the dependent adult has been financially exploited.

DHS transmits a copy of its evaluation or assessment report, including actions taken or contemplated, to the Registry within 20 regular working days after it receives the adult abuse report, unless the Registry grants an extension of time for good cause.

Upon completion of the report, **all subjects and mandatory reporters are notified in writing** of the conclusions of the evaluation or assessment report.

### **Report Conclusions**

The conclusion of the investigation is based on an evaluation of all of the information gathered during the investigation. There are three possible outcomes in a dependent adult evaluation/assessment:

- ◆ **Founded:** It is determined by a preponderance of evidence (more than 50%) that abuse has occurred. Information on founded reports is maintained on the Central Abuse Registry for ten years and then sealed.

EXCEPTION: When the dependent adult is responsible for self-denial of critical care, DHS keeps the report in the local office, not on the Central Registry. These are called "assessments" rather than "evaluations."

- ◆ **Unfounded:** It is determined by a preponderance of evidence (more than 50%) that abuse has not occurred. Information on unfounded reports is destroyed one year from the date they were unfounded.
- ◆ **Confirmed, not registered:** It is determined by a preponderance of evidence (more than 50%) that abuse has occurred. When physical abuse or denial of critical care by a caretaker are determined to be minor, isolated and unlikely to reoccur, the report is maintained in the local office for five years and then destroyed, unless a subsequent report is founded.

If there is a subsequent report committed by the same caretaker within five years, the original report will be kept in the local office and sealed ten years after the subsequent report. These reports are called "assessments" rather than "evaluations."

### **What Happens After the Evaluation?**

Based on the evaluation, DHS completes an assessment of services needed by a dependent adult believed to be the victim of abuse, the dependent adult's family, or a caretaker. In some situations there are treatment services that are available and may be offered to assist the dependent adult.

DHS does not have independent legal authority to compel the acceptance of protective services. Adults have constitutional rights that guarantee certain freedoms. Adults have a right to self-determination and have the right to voluntarily accept services or to decline or refuse them. DHS strives to balance a person's right to personal freedom with the need to protect dependent adults who are unable to protect themselves.

Upon voluntary acceptance of the offer of services, DHS makes referrals or may provide necessary protective services to eligible dependent adults, their family members, and caretakers. The following services may be offered and provided without regard to income: dependent adult protection, social casework, adult day care, adult support, transportation, and family planning.

### **Law Enforcement Intervention**

Iowa Code section 235B.3A gives the following responsibilities to law enforcement officers:

If a peace officer has reason to believe that dependent adult abuse, which is criminal in nature, has occurred, the officer shall use all reasonable means to prevent further abuse, including but not limited to any of the following:

1. If requested, remaining on the scene as long as there is a danger to the dependent adult's physical safety without the presence of a peace officer, including but not limited to staying in the dwelling unit, or if unable to remain at the scene, assisting the dependent adult in leaving the residence and securing support services or emergency shelter services.
2. Assisting the dependent adult in obtaining medical treatment necessitated by the dependent adult abuse, including providing assistance to the dependent adult in obtaining transportation to the emergency room of the nearest hospital.
3. Providing a dependent adult with immediate and adequate notice of the dependent adult's rights. The notice shall consist of handing the dependent adult a copy of the following written statement, requesting the dependent adult to read the card and asking the dependent adult whether the dependent adult understands the rights:
  - a. You have the right to ask the court for the following help on a temporary basis:
    - (1) Keeping the alleged perpetrator away from you, your home, and your place of work.
    - (2) The right to stay at your home without interference from the alleged perpetrator.
    - (3) Professional counseling for you, your family, or household members, and the alleged perpetrator of the dependent adult abuse.
  - b. If you are in need of medical treatment, you have the right to request that the peace officer present assist you in obtaining transportation to the nearest hospital or otherwise assist you.
  - c. If you believe that police protection is needed for your physical safety, you have the right to request that the peace officer present remain at the scene until you and other affected parties can leave or safety is otherwise ensured.

The notice shall also contain the telephone number of the local emergency shelter services, support services, or crisis lines operating in the area.

### **Court Action**

DHS transmits a copy of the report of its evaluation or assessment to the local county attorney. The county attorney notifies the DHS local office of any actions or contemplated actions with respect to a suspected case of adult abuse.

When a dependent adult is the victim of a criminal act by the caretaker, the caretaker may be criminally charged for maltreatment of the dependent adult. Some examples are:

Neglect or abandonment of a dependent person	Iowa Code 726.3
Wanton neglect of a dependent adult	Iowa Code 726.8(1)
Nonsupport of a dependent adult	Iowa Code 726.8(2)
Assault (various forms)	Iowa Code 708
Sexual abuse (various forms)	Iowa Code 709
Incest	Iowa Code 726.2
Dependent adult abuse (various forms)	Iowa Code 235B.20

When there is no way to protect a dependent adult adequately with voluntary services, the district court may be petitioned to intervene on behalf of the dependent adult. The district court can be petitioned to do any of the following:

- ◆ Authorize the provision of protective services to a dependent adult who is in need of services but lacks the capacity to consent to receipt of those services.
- ◆ Enjoin a caretaker from interfering with the provision of protective services to a dependent adult who is in need of such services and consents to the receipt of those services.
- ◆ Restrain a caretaker from abusing a dependent adult.
- ◆ Order the provision of the following to a dependent adult who has been the victim of dependent adult abuse when the dependent adult lacks capacity to consent to the receipt of services or is subject to an immediate threat to the person's health and safety, or when the dependent adult's abuse results in irreparable harm to the person's physical or financial resources or property:
  - Removal of the dependent adult to safer surroundings
  - Provision of medical services to the dependent
  - Provision of other needed services to the dependent adult

When DHS determines that the best interests of the dependent adult require court action, DHS may initiate action for:

- ◆ The appointment of a guardian or conservator, or
- ◆ The admission or commitment to an appropriate institution or facility, pursuant to the applicable procedures under Iowa Code Chapters 125, 222, 229, or 633.



When DHS determines a dependent adult is suffering from abuse which represents an immediate danger to the health or safety of the dependent adult and results in irreparable harm to the dependent adult or the physical or financial resources of the dependent adult, and the adult lacks the capacity to consent to receive services, DHS will petition the court to order any of the following:

- ◆ Remove the dependent adult to safer surroundings;
- ◆ Order the provision of medical services;
- ◆ Order the provision of available services, including emergency services; or
- ◆ Terminate a guardianship or conservatorship.

The county attorney shall assist DHS in the preparation of the necessary papers to initiate the action, and shall appear and represent DHS at all district court proceedings. DHS assists the district court during all stages of court proceedings involving a suspected case of adult abuse.

In every case involving adult abuse substantiated by DHS that results in a judicial proceeding on behalf of the dependent adult, the court shall appoint legal counsel to represent the dependent adult in the proceedings. The court may also appoint a guardian ad litem to represent the dependent adult when necessary to protect the dependent adult's best interests. The same attorney may be appointed to serve both as legal counsel and as guardian ad litem.

Before legal counsel or a guardian ad litem is appointed pursuant to 1983 Iowa Acts, chapter 153, section 4, the court shall require the dependent adult to complete under oath a detailed financial statement. If, on the basis of that financial statement, the court deems that the dependent adult or the legally responsible person is able to bear all or a portion of the cost of the legal counsel or guardian ad litem, the court shall so order. When the dependent adult or the legally responsible person is unable to bear the cost of the legal counsel or guardian ad litem, the expense shall be paid out of the court expense fund.

### **Substance Abuse Commitment**

Either the county attorney or an interested person may commence proceedings under Iowa Code Chapter 125 for the involuntary commitment of a substance abuser to a facility. Proceedings begin with the filing of a verified application with the clerk of the district court of the county where the respondent is presently located or which is the respondent's place of residence. The application must:

- ◆ State that the applicant believes the respondent is a chronic substance abuser
- ◆ State other pertinent facts
- ◆ Be accompanied by one or more of the following:
  - A written statement of support by a physician
  - One or more supporting affidavits
  - Other corroborative information

An attorney is appointed to represent the respondent. The court orders a hearing and an examination. The court may issue an order for immediate custody if the respondent is believed to be a danger to self or others.

A commitment hearing is held. The respondent's welfare is paramount. If the evidence is clear and convincing, a complete evaluation is ordered. The evaluating facility must report to the court whether the respondent:

- ◆ Does not require further treatment, or
- ◆ Requires full-time (inpatient) treatment, or
- ◆ Requires out patient treatment, or
- ◆ Needs treatment but is not responding to the treatment provided

Further hearings can order continued treatment if warranted.

### **Mental Health Commitment**

Any interested person may commence proceedings under Iowa Code Chapter 229 for the involuntary hospitalization of a person. Proceedings are begun by filing a verified application with the clerk of the district court of the county where the respondent is presently located, or which is the respondent's place of residence. The application must:

- ◆ State that the applicant believes the respondent is seriously mentally impaired
- ◆ State other pertinent facts
- ◆ Be accompanied by one or more of the following:
  - A written statement of support by a physician
  - One or more supporting affidavits
  - Other corroborative information

An attorney is appointed to represent the respondent. The court orders a hearing and an examination. The court may issue an order for immediate custody if the respondent is believed to be a danger to self or others.

A commitment hearing is held. The respondent's welfare is paramount. If the evidence is clear and convincing, a complete evaluation is ordered. The evaluating facility must report to the court whether the respondent:

- ◆ Does not require further treatment, or
- ◆ Requires full-time (inpatient) treatment, or
- ◆ Requires outpatient treatment, or
- ◆ Needs treatment but is not responding to the treatment provided

Further hearings can order continued treatment if warranted.

### **Conservatorship**

A “conservatorship” is a court-authorized relationship under Iowa Code sections 633.566 – 633.667 whereby one person assumes the responsibility for the custody and control of the property of another. The person to whom custody of the property is awarded is called a “conservator.” The person over whose property custody is granted is called a “ward.”

The appointment of a conservator means that the ward is either under legal age or by reason of mental, physical, or other incapacity is unable to make or carry out important decisions concerning the ward’s **financial** affairs. It does not mean that the ward is of unsound mind.

A petition for the appointment of a conservator of the property of a dependent adult may be sought to protect the property of the dependent adult if the protective concern is based on an imminent danger to that person’s property. In the absence of legal action, no person has the right to manage the property of an adult contrary to the adult’s consent.

A conservator must do all of the following:

- ◆ Take possession of the ward’s property and protect and preserve it, invest it prudently, and account for it.
- ◆ Maintain a complete list of all receipts and disbursements.
- ◆ Within 60 days of appointment, file an initial report and inventory of the property of the ward in the conservator’s possession or of which the conservator has knowledge.
- ◆ File with the court the following reports containing full itemized accounting and a list of all assets:
  - An annual report filed within 30 days of the anniversary date of the conservator’s appointment.
  - A final report filed at the termination of the conservatorship.

Failure to file a required report is a breach of the conservator’s duty to the ward and to the court. If the ward’s will comes into the conservator’s hands, it must be delivered to the court for safekeeping.

A conservator has these general powers:

- ◆ Collect, receive and receipt for any property or income of the ward, including Social Security or Veterans Benefits.
- ◆ Sell or transfer perishable personal property or personal property having an established market value.

- ◆ Receive additional property from any source.
- ◆ Make payments to the ward or to others for the benefit of the ward.
- ◆ After obtaining a court order the conservator may:
  - Invest and reinvest the funds of the ward.
  - Sell, lease or mortgage real estate.
  - Do any other thing the court determines to be in the ward's best interest.

### **Guardianship**

When the concern is for the dependent adult's life, rather than the adult's property, a person may seek guardianship appointment to provide for the legal sanction of moving the adult or protecting the adult. In the absence of such legal action, no one has the right to physically relocate an adult against the adult's will. The appointment of a guardian, authorized under Iowa Code sections 633.552 – 633.565, does not constitute an adjudication that the ward is of unsound mind.

The following conditions must be verified before filing a guardianship petition:

- ◆ The dependent adult is incompetent to make decisions regarding the adult's person.
- ◆ A qualified professional has written a document clearly stating that the dependent adult is incompetent to make decisions regarding the adult's person and the reasons for this.
- ◆ A qualified person has agreed to act as the guardian if appointed.

A guardian may be granted the following powers and duties, which may be exercised without prior court approval:

- ◆ Providing for the care, comfort and maintenance of the ward, including the appropriate training and education to maximize the ward's potential.
- ◆ Taking reasonable care of the ward's clothing, furniture, vehicle and other personal effects.
- ◆ Assisting the ward in developing maximum self-reliance and independence.
- ◆ Ensuring the ward receives necessary emergency medical services.
- ◆ Ensuring the ward receives professional care, counseling, treatment or services as necessary.
- ◆ Any other powers or duties the court may specify.

A guardian may be granted the following powers, which may be exercised only upon court approval:

- ◆ Changing the ward's permanent residence at the guardian's request, if the proposed new residence is more restrictive of the ward's liberties than the current residence.

- ◆ Arranging the provisions of major elective surgery or any other non-emergency major medical procedure.
- ◆ Consent to the withholding or withdrawal of life-sustaining procedures in accordance with Iowa Code Chapter 144A.

The court may take into account all available information concerning the capabilities of the ward and any additional evaluation deemed necessary. The court may direct that the guardian have only a specially limited responsibility for the ward. If so, the court shall state those areas of responsibility that shall be supervised by the guardian. The ward shall retain all others. The court may alter the respective responsibilities of the guardian and the ward after notice to the ward and an opportunity to be heard.

A guardian must file the following reports with the court:

- ◆ An initial report within 60 days of appointment.
- ◆ An annual report within 30 days of the anniversary date of the appointment.
- ◆ A final report within 30 days of the event causing termination.

### **How Is Dependent Adult Abuse Information Handled?**

Iowa Code section 235B.6 provides that confidentiality of dependent adult information shall be maintained, except as specifically authorized. DHS must withhold the name of the person who made the report of suspected dependent adult abuse. Only the court or the Central Abuse Registry may allow the release of that person's name.

#### **Access to Information**

Access to "founded" or "unfounded" dependent adult abuse information is authorized to:

- ◆ "Subjects" of a report (the adult victim, the guardian or legal custodian of the adult victim, and the alleged perpetrator) or the attorney for any subject.
- ◆ An employee or agent of DHS responsible for investigating an abuse report.
- ◆ DHS personnel as necessary for the performance of their official duties.
- ◆ The mandatory reporter who reported the abuse.
- ◆ The long-term care resident's advocate.
- ◆ Multidisciplinary teams.

Access to “founded” dependent adult abuse information (not to “unfounded” information) is also authorized to:

- ◆ People involved in an investigation of dependent care, including a health practitioner or mental health professional, a law enforcement officer, a multidisciplinary team.
- ◆ Individuals, agencies, or facilities providing care to a dependent adult named in a report under some circumstances. This includes a facility licensing authority, a person or agency responsible for the care of a dependent adult victim or perpetrator, a DHS registration or licensing employee, or a person providing care to an adult who is regulated by DHS, and the legally authorized protection and advocacy agency.
- ◆ Judicial and administrative proceedings under some circumstances. This may include district court, a court or administrative agency hearing an appeal for correction of dependent adult abuse information, an expert witness at any stage of an appeal hearing, and a court or administrative agency making an unemployment compensation determination.
- ◆ A person conducting bona fide dependent adult abuse research.
- ◆ DHS personnel, a person or agency under contract with DHS to carry out the duties of the Registry, or the attorney for DHS.
- ◆ The Department of Justice.
- ◆ A legally constituted adult protection agency from another state for investigative or treatment purposes.
- ◆ A health care facility administrator or designee.
- ◆ State or local substitute decision maker.
- ◆ A nursing student program administrator and to the Board of Education for abuse background checks.

To request dependent adult abuse information, complete form [470-0612](#), *Request for Dependent Adult Abuse Registry Information*. A sample of this form is included at the end of this handbook. Send this form to the local DHS office or to the Central Abuse Registry at the following address: DHS Central Abuse Registry, 1305 E Walnut St, 5th Floor, Des Moines, Iowa 50319-0114

A person who would not otherwise have access to dependent adult abuse information, may request this information on an individual who agrees to authorize this information for the purpose of a background check. This can be accomplished by completing form [470-4531](#), *Authorization for Release of Dependent Adult Abuse*. A sample of this form is included at the end of this handbook.

The form must be completed as follows:

- ◆ The person who is requesting the information must complete and sign the top portion of the form, and
- ◆ The person who is authorizing the background check must sign in the middle of the form.

Dependent adult abuse information is limited to whether or not there is a record of the person being checked as having been found to have abused a dependent adult. The person requesting the information will fax or mail the form to the Central Abuse Registry. The address and fax number are at the top of the form. DHS will perform the background check and fax or mail it back to the requester.

### **Request for Correction or Expungement of Abuse Information**

A subject of a dependent adult abuse report who feels there is incorrect or erroneous information contained in the evaluation or assessment report, or who disagrees with the conclusions of the report, may request correction of the report.

To request a correction of a report, a person must file a written statement to the effect that the information referring to the person is in whole or in part erroneous with DHS within six months of the date of the notice of the results of the evaluation. Submit to: DHS Appeals Section, 1305 E Walnut St, 5th Floor, Des Moines, Iowa 50319-0114

The local office social worker or the social worker's supervisor may wish to review the report, along with any additional information the requester provides. They may uphold, modify or overturn the original finding. A requester not satisfied with the local office review may request an administrative appeal hearing.

The administrative law judge may uphold, modify, or overturn the finding. DHS may defer the hearing until the conclusion of a court case relating to the information or findings.

If the requester is not satisfied with the decision of the administrative law judge, the matter may be appealed to the district court. The decision resulting from the hearing may be appealed to the court of Polk County or to the court of the district in which the person resides.

Iowa Code section 235B.10 provides in subsections 4, 5, and 6 that:

Upon the request of the appellant, the record and evidence in such cases shall be closed to all but the court and its officers, and access to the record and evidence shall be prohibited unless otherwise ordered by the court. The clerk shall maintain a separate docket for such actions. A person other than the appellant shall not permit a copy of the testimony or pleadings or the substance of the testimony or pleadings to be made available to any person other than a party to the action or the party's attorney. Violation of the provisions of this subsection shall be a public offense punishable under section 235B.12.

If the Registry corrects or eliminates information as requested or as ordered by the court, the Registry shall advise all persons who have received the incorrect information of the fact. Upon application to the court and service of notice on the Registry, an individual may request and obtain a list of all persons who have received dependent adult abuse information referring to that individual.

In the course of any proceeding provided for by this section, the identity of the person who reported the disputed information and the identity of any person who has been reported as having abused an adult may be withheld upon a determination by the registry that disclosure of the person's identity would be detrimental to the person's interest.

### **What Training Do Mandatory Reporters Need?**

Iowa Code section 235B.16 requires that a mandatory reporter whose work involves the examination, attending, counseling, or treatment of adults on a regular basis shall:

- ◆ Obtain a statement of the abuse reporting requirements from the person's employer (or from DHS, if self-employed) within one month of initial employment or self-employment.
- ◆ Complete two hours of training relating to the identification and reporting of dependent adult abuse within six months of initial employment (or self-employment).
- ◆ Complete at least two hours of additional dependent adult abuse identification and reporting training every five years.

NOTE: These requirements do not apply to a physician whose professional practice does not regularly involve providing primary health care to adults.

If the person is an employee of a hospital or similar public or private facility, the employer is responsible for providing the training. To the extent that the employer provides approved training on the employer's premises, the hours of training completed by employees shall be included in the calculation of nursing or service hours required to be provided to a patient or resident per day.



If the person is self-employed, employed in a licensed or certified profession, or employed by a facility or program that is subject to licensure, regulation, or approval by a state agency, the person shall obtain the training as part of:

- ◆ A continuing education program required under Iowa Code chapter 272C and approved by the applicable licensing board,
- ◆ A training board using a curriculum approved by the abuse education review panel established by the Director of Public Health, or
- ◆ A training program using such an approved curriculum offered by the Department of Human Services, the Department of Elder Affairs, the Department of Inspection and Appeals, the Iowa Law Enforcement Academy, or a similar public agency.

A person required to complete both child abuse and dependent adult abuse mandatory reporter training may complete the training through a program that combines child abuse and dependent adult abuse curricula and thereby meet both training requirements simultaneously. The person may satisfy the combined requirements through completion of a two-hour training program, if the training curriculum is approved by the applicable licensing or examining board or by the abuse education review panel established by the Department of Public Health.

Related provisions of Iowa Code section 235B.10 require:

1. The department of elder affairs in cooperation with the department [of human services] shall conduct a public information and education program. The elements and goals of the program include but are not limited to:
  - a. Informing the public regarding the laws governing dependent adult abuse and the reporting requirements for dependent adult abuse.
  - b. Providing caretakers with information regarding services to alleviate the emotional, psychological, physical, or financial stress associated with the caretaker and dependent adult relationship.
  - c. Affecting public attitudes regarding the role of the dependent adult in society.
2. The department [of human services], in cooperation with the department of elder affairs and the department of inspections and appeals, shall institute a program of education and training for persons, including members of provider groups and family members, who may come in contact with dependent adult abuse. The program shall include but is not limited to instruction regarding recognition of dependent adult abuse and the procedure for the reporting of suspected abuse.
3. The content of the continuing education required pursuant to [Iowa Code] chapter 272C for a licensed professional providing care or service to a dependent adult shall include, but is not limited to, the responsibilities, obligations, powers, and duties of a person regarding the reporting of suspected dependent adult abuse, and training to aid the professional in identifying instances of dependent adult abuse.

4. The department of inspections and appeals shall provide training to investigators regarding the collection and preservation of evidence in the case of suspected dependent adult abuse.
- 5.a. For the purposes of this subsection, “licensing board” means an examining board designated in [Iowa Code] section 147.13, the board of educational examiners created in [Iowa Code] section 272.2, or a licensing board as defined in [Iowa Code] section 272C.1.
- 5.f. A licensing board with authority over the license of a person required to report cases of dependent adult abuse pursuant to [Iowa Code] section 235B.3 shall require as a condition of licensure that the person be in compliance with the requirements for abuse training under this subsection. The licensing board shall require the person upon licensure renewal to accurately document for the licensing board the person’s completion of the training requirements.

However, the licensing board may adopt rules providing for waiver or suspension of the compliance requirements, if the waiver or suspension is in the public interest, applicable to a person who is engaged in active duty in the military service of this state or the United States, to a person for whom compliance with the training requirements would impose a significant hardship, or to a person who is practicing a licensed profession outside this state or is otherwise subject to circumstances that would preclude the person from encountering dependent adult abuse in this state.

- 5.g. For persons required to report cases of dependent adult abuse pursuant to [Iowa Code] section 235B.3, who are not engaged in a licensed profession that is subject to the authority of a licensing board but are employed by a facility or program subject to licensure, registration, or approval by a state agency, the agency shall require as a condition of the renewal of the facility’s or program’s licensure, registration, or approval, that such persons employed by the facility or program are in compliance with the training requirements of this subsection.
- 5.h. For peace officers, the elected or appointed official designated as the head of the agency employing the peace officer shall ensure compliance with the training requirements of this subsection.
- 5.i. For mandatory reporters who are employees of state departments and political subdivisions of the state, the department director or the chief administrator of the political subdivision shall ensure the person’s compliance with the training requirements of this subsection.

**SUSPECTED DEPENDENT ADULT ABUSE REPORT**

This form may be used as the written report that mandatory reporters file with the Department of Human Services following an oral report of suspected dependent adult abuse. See page 2 for instructions.

There are three criteria for a dependent adult abuse referral:

- (1) A dependent adult.      (2) Abuse as defined in Iowa Code 235B.      (3) A caretaker, if applicable.

**REPORT INFORMATION**

Name of Dependent	Phone (      )	Birth Date	
Street	City	State	Zip Code
1. Person is a dependent adult because:			
2. Type of abuse noted: <input type="checkbox"/> Physical injury <input type="checkbox"/> Financial exploitation <input type="checkbox"/> Denial of care by dependent adult him/herself <input type="checkbox"/> Sexual offense <input type="checkbox"/> Unreasonable punishment <input type="checkbox"/> Denial of care by caretaker <input type="checkbox"/> Unreasonable confinement			
Information about suspected abuse: (Incidents, previous abuse, person responsible for abuse, name and address of guardian, etc.)			
3. Caretaker: (Omit if deprivation is <u>by</u> the dependent adult.)			
Name		Phone (      )	
Street	City	State	Zip Code
Person is a caretaker because:			

**REPORTER INFORMATION**

Name	Position	Relationship to Adult
Office Address		Phone (      )
Names of other mandatory reporters who have knowledge of the abuse		
Signature of Reporter		Date

**Instructions for Completing Form 470-2441,  
Suspected Dependent Adult Abuse Report**

- ⇒ The mandatory reporter who has made the initial oral report of suspected abuse to the Department of Human Services prepares this form.
- ⇒ Submit this form within 48 hours of the oral report to the Protective Service Unit that will be conducting the evaluation or assessment.
- ⇒ If the oral report was not accepted for evaluation or assessment, this form is not necessary.
- ⇒ If your agency has a report form or letter format that includes all of the information requested on this form, you may use the agency format in place of form 470-2441.

**Use the space below if there is not enough space for all pertinent information on the front of this form. You can attach collateral reports or other information to the form.**

Iowa Department of Human Services

**REQUEST FOR DEPENDENT ADULT ABUSE REGISTRY INFORMATION**

To request information about dependent adult abuse, complete this form and mail it to:

**Central Abuse Registry, Iowa Department of Human Services, 1305 E Walnut, Des Moines, Iowa 50319-0114.**

Note: Information will be released only to people who have access to it under Iowa Code section 235B.6.

**Criminal Penalties** (235B.12)

1. Any person who willfully requests, or seeks to obtain dependent adult abuse information under false pretenses, or who willfully communicates or seeks to communicate dependent adult abuse information to any agency or person except in accordance with section 235B.6 and 235B.8, or any person connected with any research authorized pursuant to section 235B.6 who willfully falsifies dependent adult abuse information or any records relating thereto, is guilty of a serious misdemeanor. Any person who knowingly, but without criminal purposes, communicates or seeks to communicate dependent adult abuse information except in accordance with section 235B.6 and 235B.8 shall be guilty of a simple misdemeanor.
2. Any responsible grounds for belief that a person has violated any provision of this chapter shall be grounds for the immediate withdrawal of any authorized access such person might otherwise have to dependent adult abuse information.

**Redissemination of Dependent Adult Abuse Information** (235B.8)

1. A recipient of dependent adult abuse information authorized to receive the information shall not redisseminate the information, except that redissemination shall be permitted when all of the following conditions apply:
  - a. The redissemination is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.
  - b. The person to whom such information would be redisseminated would have independent access to the same information under section 235B.6.
  - c. A written record is made of the redissemination, including the name of the recipient and the date and purpose of the redissemination.
  - d. The written record is forwarded to the registry within thirty days of the redissemination.

Name of person making request:		Office phone:	
Office address:			
Position and basis for authorization (Code 235B.6):			
Information requested concerning (name—first, middle, last):		Social security number:	Birth date:
Maiden name or alias (if applicable):	Address:		
What information is requested:			
Date	Signature		
<b>To be completed by Registry personnel</b>			Date:
<input type="checkbox"/> Request approved by:			
<input type="checkbox"/> Request denied because:			
Information released:			

**Authorization for Release of Dependent Adult Abuse Information**

This form must be used to authorize release of dependent adult abuse information when the person requesting the information does not have independent access to it in Iowa law. Complete a separate form for each person about whom information is requested. Send the original to the Central Abuse Registry, Iowa Department of Human Services, 1305 E Walnut Street, 5th Floor, Des Moines, IA 50319-0114 or fax to 515-242-6884.

**To be completed by the person requesting information:**

Requester

Address

City

State

Zip Code

Phone Number

The information concerns:

Name (first, middle initial, last)

Maiden Name or Alias (if applicable)

Birth Date

Social Security Number

Address

City

State

Zip Code

County

What is the purpose of your request for dependent adult abuse information?

I have read and understand the legal provisions for handling dependent adult abuse information that are printed on the second page of this form.

Signature

Date

**To be completed by the person authorizing the Department of Human Services to release dependent adult abuse information:**

Signature

Date

**To be completed by the Central Abuse Registry or designee:**

- ☐ The person named above is listed on the Dependent Adult Abuse Registry as having abused a dependent adult.
- ☐ The person named above is not listed on the Dependent Adult Abuse Registry as having abused a dependent adult.
- ☐ This request for information is denied because the form is incomplete.

Signature

Date

Comments:

## **Legal Provisions for the Handling of Dependent Adult Abuse**

### **Redissemination of Dependent Adult Abuse Information, Iowa Code 235B.8**

A person, agency, or other recipient of dependent adult abuse information shall not retransmit this information. However, retransmission is permitted when all of the following conditions apply:

- The retransmission is for official purposes in connection with prescribed duties or, in the case of a health practitioner, pursuant to professional responsibilities.
- The person to whom the information would be retransmitted would have independent access to the same information under Iowa Code section 235B.6.
- A written record is made of the retransmission, including the name of the recipient and the date and purpose of the retransmission.
- The written record is forwarded to the Registry within 30 days of the retransmission.

### **Criminal Penalties, Iowa Code 235B.12**

Any person is guilty of a criminal offense when the person:

- Willfully requests, obtains, or seeks to obtain dependent adult abuse information under false pretense.
- Willfully communicates or seeks to communicate dependent adult abuse information to any agency or person except in accordance with Iowa Code sections 235B.6 through 235B.8.
- Is connected with any research authorized pursuant to Iowa Code section 235B.6 and willfully falsifies dependent adult abuse information or any records relating to dependent adult abuse.

Upon conviction for each offense, the person shall be punished by a fine of up to \$1,000 or imprisonment for not more than two years, or by both fine and imprisonment.

Any person who knowingly, but without criminal purposes, communicates, or seeks to communicate dependent adult abuse information except in accordance with Iowa Code sections 235B.6 and 235B.8 shall be fined not more than \$100 or be imprisoned not more than ten days for each such offense.

## OVERVIEW

This Handbook provides a guide for evaluation of dependent adult abuse perpetrated by a caregiver in out-of-home care settings. It will facilitate the provision of protective services to dependent adults in one of the many available living arrangements in our communities.

(This Handbook does not address denial of critical care by a dependent adult. For guidelines on how to assess self-denial of critical care, see [Comm. 96, \*Dependent Adult Protection Handbook\*](#), in DHS Employees' Manual 16-G-Appendix.)

This Handbook is intended for use with dependent adult protection evaluations in the following settings, that are not health care facilities or programs nor in the home:

- ◆ Family-life homes
- ◆ Hospice programs
- ◆ Respite care
- ◆ Waiver programs
- ◆ Vocational rehabilitation
- ◆ Sheltered workshops
- ◆ Work activity centers

These facilities, agencies, and programs are licensed, certified, or approved by the Iowa Department of Human Services (DHS), the Iowa Department of Public Health (DPH), and county governments.

The Iowa Department of Inspections and Appeals (DIA) evaluates allegations of dependent adult abuse in the following facilities and programs that are licensed under Iowa Code Chapter 135C or certified or defined under Iowa Code Chapter 231B, 231C, or 231D:

- ◆ Adult day services
- ◆ Assisted living programs
- ◆ Elder group homes
- ◆ Hospitals
- ◆ Intermediate care facilities for the mentally ill
- ◆ Intermediate care facilities for the mentally retarded
- ◆ Nursing facilities
- ◆ Residential care facilities
- ◆ State mental health institutes

DHS will assess the immediate threat to a dependent adult's physical safety when a referral related to one of these facilities or programs is received after hours, on a weekend, or on a state holiday.



◆ **Physical Restraints:**

A report may allege physical abuse as a result of physical restraint at a facility, agency or program. Physical restraint of a dependent adult, who is a resident of a health care facility, agency, or program, may be necessary to prevent the dependent adult from injuring self or others, damaging property, or engaging in extremely disruptive behaviors.

When determining if incidents involving the report of physical abuse due to the use of physical restraints are dependent adult abuse, consider the following:

- Whether the restraint used was reasonable, considering the precipitating situation.
- The seriousness of the injury to the dependent adult.
- Whether attempts were made to avoid injury.
- Whether the injury is compatible with the explanation provided.
- Whether or not the restraint was applied appropriately and executed properly.
- Whether or not the person who had applied the restraint received adequate training.
- Whether or not the use of restraints is prescribed by the dependent adult's physician and included in the individual's plan of care.

◆ **Sexual Abuse:**

The commission of a sexual offense under chapter 709 or section 726.2 with or against a dependent adult as a result of the willful or negligent acts or omissions of a caretaker.

This includes the following categories:

- First degree sexual abuse
- Second degree sexual abuse
- Third degree sexual abuse
- Detention in a brothel
- Indecent exposure
- Assault with intent to commit sexual abuse
- Incest
- Sexual exploitation by a counselor or therapist
- Invasion of privacy, nudity
- Sexual exploitation by a caretaker

"Counselor or therapist means a physician, psychologist, nurse, professional counselor, social worker, marriage or family therapist, alcohol or drug counselor, member of the clergy, or any other person, whether or not licensed or registered by the state, who provides or purports to provide mental health services."

**Note:** This definition includes staff in residential facilities who have the title of "counselor," "treatment worker," "therapist," "cottage parent," or other terms designating a position of authority over and responsibility for treatment services to dependent adults who are residing in the facility, even if these people do not have professional degrees or training.

- **False pretenses** is the crime of knowingly obtaining title to another's personal property by misrepresenting a fact with the intent to defraud. [Black's Law Dictionary, Seventh Edition, West Group, 1999]

◆ **Denial of Critical Care:**

The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, or other care necessary to maintain a dependent adult's life or health, as a result of the willful or negligent acts or omissions of a caretaker. This includes the following subcategories:

- Denial of or failure to provide adequate food
- Denial of or failure to provide adequate shelter
- Denial of or failure to provide adequate clothing
- Denial of or failure to provide adequate medical care
- Denial of or failure to provide adequate mental health care
- Denial of or failure to meet emotional needs necessary for normal functioning
- Denial of or failure to provide proper supervision
- Denial of or failure to provide adequate physical care

◆ **Denial of Critical Care (Self):**

The deprivation of the minimum food, shelter, clothing, supervision, physical or mental health care, and other care necessary to maintain a dependent adult's life or health as a result of the acts or omissions of the dependent adult. (Same subcategories as above.)

**Note:** This Handbook does not address denial of critical care by a dependent adult. For guidelines on how to assess self-denial of critical care, see [Comm. 96, \*Dependent Adult Protection Handbook\*](#), in DHS Employees' Manual 16-G-Appendix.)

◆ **Sexual Exploitation of a Dependent Adult by a Caretaker**

Any consensual or nonconsensual sexual conduct with a dependent adult for the purpose of arousing or satisfying the sexual desires of the caretaker or dependent adult, which includes but is not limited to kissing, touching of the clothed or unclothed inner thigh, breast, groin, buttock, anus, pubes, or genitals; or a sex act, as defined in section 702.17.

Sexual exploitation does not include touching which is part of a necessary examination, treatment, or care by a caretaker acting within the scope of the practice or employment of the caretaker; the exchange of a brief touch or hug between the dependent adult and a caretaker for the purpose of reassurance, comfort, or casual friendship; or touching between spouses.

<b>Facilities, Agencies, and Programs Where DHS Completes Dependent Adult Abuse Evaluations</b>			
<b>Setting:</b>	<b>Governed by:</b>	<b>Regulated by:</b>	<b>Notify when initiating evaluation:</b>
Adult support	County contract	County central point of coordination administrator	Agency administrator, guardian of dependent adult, DHS case manager or adult services worker
Case management, Community mental health centers, Community supported living, Other mental health services	441 IAC 24	DHS Division of Mental Health and Disabilities Services	Agency administrator, MHD quality assurance staff, guardian of dependent adult, DHS case manager or adult services worker
Community supervised apartment living arrangement services	County contract	County central point of coordination administrator	Agency administrator, guardian of dependent adult, DHS case manager or adult service worker
Family-life homes	441 IAC 111	DHS service worker or case manager	DHS supervisor, guardian of dependent adult, DHS case manager or adult services worker
Home- and community-based waiver services, including: Supported employment, Supported community living, Case management services	441 IAC 77, 78, 83	DHS Bureau of Long-Term Care	Agency administrator, Long-Term Care Bureau chief, HCBS waiver specialist, guardian of dependent adult, DHS case manager or adult services worker
Hospice programs	Iowa Code Chapter 135J 481 IAC 53	Department of Inspections and Appeals, Division of Health Facilities	Agency administrator, DIA licensure surveyor, guardian of dependent adult, case manager
Sheltered work program Work activity program	County contract	County central point of coordination administrator	Agency administrator, guardian of dependent adult, DHS case manager or adult services worker
Substance abuse program	Iowa Code Chapter 125	Department of Public Health, Division of Substance Abuse	Agency administrator, DPH licensure surveyor, guardian of dependent adult, case manager

Facilities, Agencies, and Programs Where DHS Completes Dependent Adult Abuse Evaluations			
Setting:	Governed by:	Regulated by:	Notify when initiating evaluation:
Facilities, Agencies, and Programs Where DHS Completes Dependent Adult Abuse Evaluations			
Setting:	Governed by:	Regulated by:	Notify when initiating evaluation:
Vocational rehabilitation program	Federal Workforce Investment Act for 1998	Department of Education, Rehabilitation Resources Bureau	Agency administrator, RR policy coordinator, rehabilitation counselor of dependent adult, guardian of dependent adult, case manager

### **Facilities and Programs Where DIA Evaluates Allegations of Dependent Adult Abuse**

The Iowa Department of Inspections and Appeals (DIA) is responsible for the evaluation and disposition of dependent adult abuse reports within health care facilities and programs that are licensed or certified under Iowa Code Chapter 135B, 135C, 231B, 231C, or 231D when facility staff members are the alleged perpetrators. These facilities include:

- ◆ Residential care facilities (RCFs)
- ◆ Nursing facilities
- ◆ Intermediate care facilities for persons with mental retardation (ICF/MR)
- ◆ Intermediate care facilities for persons with mental illness (ICF/MI)
- ◆ Elder group homes
- ◆ Assisted living programs
- ◆ Adult day services programs

DIA is responsible for evaluations of dependent adult abuse reports concerning

- ◆ Patients in hospitals when hospital employees are the alleged perpetrators.
- ◆ Patients in the following facilities when employees are the alleged perpetrators of abuse:
  - Cherokee Mental Health Institute
  - Clarinda Mental Health Institute
  - Independence Mental Health Institute
  - Mount Pleasant Mental Health Institute
  - Glenwood Resource Center
  - Woodward Resource Center

To find out if a program, agency or facility is licensed by DIA through Iowa Code Chapter 135C, go to the DIA Facility Web site: <https://www.state.ia.us/government/dia/index.html>

Scroll down and click on “Health Facilities.” Then scroll down and under “Facilities Web Site,” click on “Clicking here.” When you have this site, click on “entity search” on the left side of the page. Type in the name of the facility you are inquiring about in “Entity Name.” Enter the name of the city in “Entity City.” Click “Search.” If the facility or agency is listed, DIA has responsibility for evaluating dependent adult abuse for that agency.

Forward any referral of alleged dependent adult abuse by a staff member of a health care facility or program as listed above immediately (as soon as is practicable) to the DIA staff person who evaluates allegations of dependent adult abuse for the area. (DIA can be contacted at 1-877-686-0027.)

### **DHS Responsibilities for Allegations of Abuse in Health Care Facilities**

DHS staff are responsible for evaluating alleged abuse of a dependent adult who is a resident of a health care facility, elder group home, assisted living program, or adult day service program when:

- ◆ The alleged perpetrator is a caretaker other than facility or program staff members. This includes an allegation of financial exploitation when someone outside of the facility or program has control of the dependent adult’s finances.
- ◆ The alleged abuse occurred when the dependent adult was out of the facility or program with a caretaker other than facility staff members.

In such cases, an evaluation of alleged dependent adult abuse of a resident of a health care facility, elder group home, or adult day program is conducted the same as an evaluation of a dependent adult abuse living in the community, using this handbook as a guide.

### **DHS Response to Allegations After Hours, Weekends, and Holidays**

DHS will assess the immediate threat to the physical safety of the resident when a referral is made alleging abuse of a dependent adult in a program or facility where DIA is responsible for the evaluation when the referral is received:

- ◆ After 4:30 p.m. Monday through Friday,
- ◆ On a weekend, or
- ◆ On a state holiday.

DIA will complete the evaluation of abuse.

If you receive such a referral after hours, on a weekend, or a holiday, proceed with the following actions:

- ◆ If it appears that the dependent adult is at risk of immediate danger to health or safety, contact local law enforcement for assistance. Proceed to the facility to address safety of the alleged victim. Upon arrival, notify the administrator or designee of the allegations.
- ◆ If you determine that the dependent adult is in immediate danger to health or safety, take steps necessary for the dependent adult's safety, with the assistance of law enforcement.
- ◆ If the dependent adult has been physically harmed in any way or appears to need medical care, ensure that arrangements are made for the dependent adult to receive medical care.
- ◆ Report the incident and forward any information collected to the DIA on the first working day following receipt of the referral. To report the incident, call the DIA Division of Health Care Facilities at 1-877-686-0027.
- ◆ Prepare a written report on the actions taken on behalf of the alleged victim and send a copy to DIA. DIA will complete the dependent adult abuse evaluation.

### **Initial Contacts**

For facilities, agencies and programs, the administrator or director is typically the principal contact person. Ask the facility, agency, or program administrator or director to designate primary contact personnel for business hours and for evening and weekend hours.

Contact registration, licensing, or regulating personnel regarding the allegations and licensing issues regardless of the decision of whether to accept or reject the referral or the outcome of the evaluation.

Contact with the administrator or director may be simultaneous with the first visit to the facility, agency, or program. If the administrator or director is the alleged perpetrator, seek supervisory or program consultation for consideration of alternative notification. When appropriate, in compliance with local protocol, notify law enforcement.

Notify appropriate personnel within the DHS chain of command as required by local protocol. Notify the caseworker for the dependent adult. Involve the caseworker in the evaluation and keep the caseworker apprised of developments, as appropriate.

As always, notify the county attorney of all intakes.

**Note:** For purposes of appeal and dissemination when there are multiple alleged perpetrators or multiple victims, create a separate case for each alleged perpetrator and victim.

If you discover during the course of your evaluation that perpetrators of the alleged abuse had received inadequate training, evaluate the training program of the facility, agency, or program. Determine if the training is adequate to provide the types of skills required for staff to be able to provide adequate and safe care to the dependent adults currently receiving care from the facility, agency, or program.

### **Evaluating the Safety of the Dependent Adult**

If you determine that there is an **immediate risk** to the dependent adult's safety, ask the director or contact person of the facility, agency, or program what steps are going to be taken to address the safety of the dependent adult until the evaluation is completed. Steps may include the following:

- ◆ Placing the alleged perpetrator on leave status (vacation, leave with pay, leave without pay).
- ◆ Assigning the alleged perpetrator to duties that are not client related.
- ◆ Moving the dependent adult to another facility. (Consider this only after consulting the placing worker.) Consider the best interest of the dependent adult and safety issues.

Stress the risk of liability to the director or contact person of the facility, agency or program if there is an unwillingness to take steps to address the safety issues of the dependent adult or other dependent adults receiving care from the facility, agency, or program.

If you and the licensing manager are not satisfied with the way the safety issues were addressed by the facility, agency, or program, submit a written memo to the administrator of the Division of Child and Family Services. Take necessary steps to address the safety of the dependent adult and other dependent adults within the facility or program.

If you determine that there is an **ongoing** risk to the dependent adult's safety, evaluate:

- ◆ The dependent adult's safety and the risk of reoccurrence of abuse after making necessary observations, interviewing witnesses and reviewing documents.
- ◆ The continued risk to the dependent adult and any other dependent adults residing in the same facility, or receiving care from the same agency or program.
- ◆ The safety/risk of other dependent adults accessible to the alleged perpetrator of abuse.

Make your determination by considering the following:

- ◆ Severity of alleged abuse.
- ◆ Corrective measures taken by the facility, agency, or program to provide safety.
- ◆ Services and supports available to the victim.

If you determine that the dependent adult is **not safe** in the current living arrangement, document that in your report and document your efforts to assist in providing safety for the dependent adult.

### **Evaluation and Interview Suggestions**

- ◆ Team the evaluation (protective worker and licensing or regulatory worker, law enforcement, long-term care resident's advocate, or other appropriate personnel).
- ◆ Consider tape recording interviews.
- ◆ Verify quotes or statements from interviews (especially of facility, agency, or program employees) before including the quotes or statements in a report.
- ◆ Use expert consultation, as needed.
- ◆ Fully inform the alleged perpetrator of appeal rights.

### **Interviews**

During the evaluation, you must observe the alleged abused dependent adult and interview the person if possible. You must also interview, or at least offer to interview, the alleged perpetrator. Other people you may wish to interview include the following:

- ◆ The alleged perpetrator's supervisor.
- ◆ The agency's administrator.
- ◆ An expert consultant.
- ◆ A family member or guardian.
- ◆ Anyone believed to have been in the area who may have witnessed the alleged abuse.
- ◆ Anyone believed to have knowledge about the alleged abuse, the dependent adult, or the alleged perpetrator.

In **all interviews**, record the following information:

- ◆ The time, place and date the interview was conducted.
- ◆ A description of person interviewed (name, address, age, employment, relationship to subjects if any, etc.).
- ◆ Where the person was at the time of the alleged abuse.
- ◆ What the person actually saw, smelled, or felt.
- ◆ What the person actually heard. Make an effort to obtain actual quotes the person can give of the conversation heard.
- ◆ How long the alleged abuse lasted.
- ◆ What conditions were present that would affect the ability to see or hear (dark, light, background noise, etc.)
- ◆ What other persons were present.
- ◆ What the policies of the facility (agency, program) are concerning the specific situation.



## **DETERMINING REPORT CONCLUSIONS**

When you formulate your conclusion:

- ◆ Review all information that relates to making a finding for the type of abuse that was alleged (including accumulated evidence and manual guidelines).
- ◆ List the factors and supporting evidence for each factor in the “CONCLUSIONS” section of the report.

As in any other dependent adult abuse evaluation, all factors must be present in order to found a dependent adult abuse report. There must be:

- ◆ A dependent adult.
- ◆ A caretaker.
- ◆ An incident that meets the definition of one of the types of dependent adult abuse:
  - Physical abuse
  - Sexual abuse
  - Denial of critical care
  - Self-denial of critical care
  - Exploitation
  - Sexual exploitation by a caretaker

A violation of program policy or procedure does not automatically result in a “founded” conclusion. For detailed instructions on determining conclusions for all allegations of dependent adult abuse, see 16-G-Appendix, [Dependent Adult Abuse Evaluation Handbook, Comm. 96](#).

Determine whether each allegation in the report is:

- ◆ **Founded**, which means that it has been determined by a preponderance of evidence (greater than 50%) that abuse has occurred.
- ◆ **Unfounded**, which means that it has been determined by a preponderance of evidence (greater than 50%) that dependent adult abuse has not occurred.
- ◆ **Confirmed, not registered**, which means physical abuse or denial of critical care caused by a caretaker that is determined by a preponderance of evidence (greater than 50%) has occurred, but is minor, isolated and unlikely to reoccur.

## **CLOSURE MEETING**

Upon completion of your evaluation, schedule a closure meeting with the facility, agency, or program. You, your supervisor, and the administrator or director or with that person's designee must be included. You may also consider including in the meeting:

- ◆ Relevant regulatory personnel (licensing manager, certification manager, program specialists, etc.).
- ◆ DHS area service administrator (if appropriate).
- ◆ DHS service worker or other case manager.

The purpose of the meeting is to exchange information regarding the findings of the dependent adult abuse evaluation. Because of confidentiality, specific information concerning the subjects of the report may not be discussed. It is also the purpose to discuss any concerns identified regarding policy and practice along with the outcomes of the facility, agency, or program's internal investigation.

It may be possible to accomplish the purpose of the closure meeting with a phone call, if there are no or few policy or procedure issues.

## **EVALUATION REPORT AND NOTICES**

Complete and submit the *Dependent Adult Abuse Report*, form 470-0688, as in any other dependent adult abuse report. (See 16-G, [Written Report](#), for specific direction on completing dependent adult abuse reports.)

Verbally notify the subjects of the report and the mandatory reporter of the results of the evaluation. Send copies of form 470-2444, *Adult Protective Notification*, to the mandatory reporter and the subjects of the report. The notification will include information regarding confidentiality provisions, the procedures for correction or expungement, and appeal rights.

### **Notice to Facility**

You must also send a notice to the facility for any evaluation in which you find problems with facility, agency or program policy or practice, regardless of whether the dependent adult abuse allegations are founded or unfounded.